REPORT

FROM THE

COMMITTEE

To whom the PETITION of the

COMMISSIONERS

OF THE

GENERAL ASSEMBLY of the Church of SCOTLAND;

And alſo the PETITION of

JAMES Earl of *Morton*,

AND OTHERS,

On behalf of themſelves, and other NOBLEMEN, GENTLEMEN, FREEHOLDERS, and HERETORS, in *Scotland*;

WAS REFERRED.

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REPORT

FROM THE

COMMITTEE

To whom the PETITION of the

MINISTERS of *SCOTLAND*, &c.

WAS REFERRED.

THE Committee to whom the Petition of Mr. *Robert Patoun*, Miniſter of *Renfrew*, Moderator of the laſt General Aſſembly of the Church of *Scotland*, Dr. *Patrick Cumming*, Profeſſor of Church Hiſtory, and one of the Miniſters of *Edinburgh*, Mr. *William Steel*, Miniſter at *Sorn*, and Mr. *David Dalrymple*, Advocate, Ruling Elder, Commiſſioners for the General Aſſembly of the Church of *Scotland*; and alſo the Petition of *James* Earl of *Morton*, *James* Earl of *Lauderdale*, *John* Earl of *Hopetoun*, *Charles Hope Weir*, *Robert Dundaſs*, and *Archibald Murray*, Eſquires, on behalf of themſelves, and great Numbers of other Noblemen, Gentle-

Gentlemen, Freeholders, and Heritors, in that Part of *Great Britain* called *Scotland*, were ſeverally referred, have, purſuant to the Order of the Houſe, examined the Matter of the ſaid Petitions.

And it being, by the firſt-mentioned Petition, alledged, That by the Laws of *Scotland*, before the Union of the two Kingdoms, Proviſion was made for the Maintenance of the Miniſters of the Goſpel in the reſpective Pariſhes of that Kingdom, by appointing, from time to time, Parliamentary Commiſſioners for Plantation of Churches, and Valuation of Tythes, who were impowered to appoint and ſettle a conſtant and local Stipend to each Miniſter, to be paid out of the Tythes of each Pariſh, and alſo to grant Augmentations to Miniſters not already ſufficiently provided for; and that all the Powers of ſuch Commiſſioners were, by an Act of the laſt Parliament of *Scotland*, veſted in the Court of Seſſion;

And the Petitioners, in the Second Petition, inſiſting, That by the Laws of *Scotland*, made before the Union, and now in Force, a very ſufficient and ample Proviſion is made for the Maintenance of Miniſters, and Augmentations of ſuch of their Stipends as have not been legally modified and ſettled, purſuant to the Laws in being; and for the due Payment of Stipends, and the uniting and dividing Pariſhes;

In order to ſhew what the Law of *Scotland* was, in relation to this Matter, before the Union, the following Acts of the Parliaments of *Scotland* were ſeverally produced, and read to your Committee, by the Petitioners reſpectively, in Support of their reſpective Allegations; that is to ſay,

1. The 3d Act of the Parliament of *Scotland*, *Anno* 1617. intituled, *Anent Plantation of Kirks*; whereby certain Commiſſioners, commonly called Commiſſioners of Teinds, were appointed, with Power to call and ſummon before them all Patrons, Taxmen of Teinds, great and ſmall, and all others having Right, by whatſoever Title, to the

the Teinds within *Scotland*, as they ſhould think neceſſary and expedient, to exhibit and produce before them their Rights and Titles, whereby they claim the ſaid Teinds, to be ſeen and conſidered by the ſaid Commiſſioners; with Power to them, out of the ſaid Teinds of every Pariſh, to appoint and aſſign, at their Diſcretions, a perpetual local Stipend to the Miniſters preſent and to come, at all Kirks that ſhould be found by them, either as yet not provided at all with Miniſters and Stipends, or where the Proviſion was leſs than Five hundred Marks of yearly Rent in Money, or Five Chalders Victual (beſides Manſe and Glebe), or ſuch Proportion, particularly of Silver and Victual, as would extend to Five hundred Marks, or Five Chalders of Victual yearly; and which was the leaſt and the meaneſt Stipend; and Proviſion thereby appointed to be given and aſſigned to any Miniſter for his local Stipend in time coming, where the Fruits of the Benefice will extend to that Quantity in manner under-written; and that notwithſtanding of any Right or Title pretended by the ſaid Taxmen, or others, in whoſe Favours Teinds have been erected; with ſpecial Power alſo to the ſaid Commiſſioners to unite ſuch Kirks, one or more, as might conveniently be united, where the Fruits of any one alone would not ſuffice to entertain one Miniſter. Provided, That whereas there were divers Kirks, whereof the Fruits of any one would not extend to the Quantity of Five Chalders Victual, nor Five hundred Marks of Silver in yearly Commodity, and that the Rents, and whole Patrimony thereof, were no-ways anſwerable to that Proportion, and ſo was not ſufficient alone for the full Maintenance of one Miniſter; and yet nevertheleſs for Diſtance of Place, or other lawful Cauſes, might be found incommodious to be united; whereby Neceſſity would evince, that every Kirk in that Eſtate ſhould be planted with their own particular Miniſter, to ſerve thereat, whoſe Proviſion behoves neceſſarily to conſiſt of the Fruits of the Benefice itſelf, how-

however mean the ſame be. Therefore it was declared, That it ſhould be ſufficient to the ſaid Commiſſioners, in that Caſe, to aſſign and appoint, to the Miniſter to be planted at any ſuch Kirk, the whole Fruits pertaining to the Patrimony thereof, by and attour his Manſe and Glebe, which Fruits were to be enjoyed by him and his Succeſſors thereafter, as their perpetual local Stipend and Proviſion; and that where any Kirks were already ſufficiently provided, albeit their Proviſion exceed the aforeſaid Quantity of Ten Chalders Victual, or One thouſand Marks of Money; and alſo where the Fruits of any Benefice were in the Poſſeſſion of the Miniſter; that the ſame ſhould be continued in the Eſtate wherein it then was, and not be meddled with by the ſaid Commiſſion. And it was thereby enacted, That the Decreets and Sentence of the ſaid Commiſſioners, in all the Particulars aforeſaid, to have the Strength, Force, and Authority of Decreet, Sentence, and Act of Parliament; and that no Perſon, in whoſe Favours the Tiends of Kirks and Benefices are erected, nor no other whatſoever bruiking Teinds, by virtue of Rights lawfully made to them of the ſame, according to the Laws of the ſaid Realm then ſtanding, ſhould be ever farther altered or quarrelled in any of their ſaid Rights, in any time to come, farther than ſhould be appointed by the ſaid Decreet and Sentence to follow this preſent Commiſſion; but the ſaid Rights and Securities, in Caſe aforeſaid, ſhall remain in their own Strength, Force, and Effect, as good, lawful, and ſufficient Rights and Securities to them, and every one of them, for their own Parts, for bruiking and enjoying the ſaid Tiends, conform to the Tenor of the ſaid Rights for now and for ever.

2. The 5th Act of the Parliament of *Scotland*, *Anno* 1621. intituled, *Anent the Plantation of Kirks as yet unplanted*, whereby the Commiſſioners therein named were impowered to call, and ſummon before them, all Patrons, Tackſmen of Tythes, great and ſmall, and others having

ing Right, by whatſoever Title, to the Tythes of any of the Kirks within that Kingdom, which were not then already planted by the ſaid Firſt Commiſſion, and which ſhould be any-ways meddled with by that preſent Commiſſion, as they ſhould think neceſſary and expedient, to exhibit and produce before them their Rights and Titles, whereby they claimed the ſaid Teinds, to be ſeen and conſidered by the ſaid Commiſſioners; with Power to the ſaid Commiſſioners, out of the ſaid Tythes of every Pariſh and Kirk not already planted, to appoint and aſſign, at their Diſcretions, a perpetual local Stipend to the Miniſters preſent and to come, at all the ſaid Kirks unprovided as aforeſaid; and with Power alſo to the ſaid Commiſſioners to diſunite ſuch Kirks, one or more, as were united before, and appointed to be ſerved by one Miniſter; and, as they, upon good Conſiderations, ſhould find requiſite, to appoint to be ſerved with ſeveral Functions and Charges, as diſtinct Pariſhes, after ſuch manner as ſhould be found by them moſt expedient: Provided always, That all Parties having Intereſt in the Union and Diſuniting of the ſaid Kirks, and Plantation thereof, give their expreſs Conſent thereto; and that the ſaid Commiſſioners ſhould have no Power, by virtue of the ſaid Commiſſion, to alter, or meddle with, any Kirks which were ſettled by virtue of the Commiſſion granted in 1617, or to change the Eſtate thereof in any-ways, or to erect, build, or provide, any new Kirk, without the ſpecial and expreſs Conſent of all Parties having Intereſt, had and obtained thereto, without whoſe Conſents it ſhould not be lawful for the ſaid Commiſſioners in any-ways to touch the ſaid Kirks ſo provided, but the ſame were expreſly excepted (except in Caſes of Conſent,) as aforeſaid, out of that preſent Commiſſion.

3. The 8th Act of the Parliament of *Scotland*, *Anno* 1633, intituled, *Ratification of the Act of Commiſſion anent the Miniſters Proviſions*, whereby the Parliament ratified and

and approved the Act of Commiſſion of Surrenders and Teinds, dated *Holy-rood-houſe*, the 26th Day of *June* 1627, whereof the Tenor follows: " The Commiſſioners, af-
" ter reaſoning upon the loweſt Proportion and Proviſi-
" on wherewith the Miniſtry ſerving the Cure at each
" Kirk ſhall be provided, have found it meet and expe-
" dient, that the loweſt Proportion ſhall be Eight Chal-
" der of Victual, where Victual is paid, or proportion-
" ally in Silver or Victual, as the Commiſſioners ſhall
" appoint at the Settling of the Kirk, and according to
" the Eſtate of that Part of the Country where the Pay-
" ment of the Stipend ſhall occur: And think it meet,
" that the ſaid Proportion of Eight Chalder of Victual,
" or proportionally in Silver, as ſaid is, ſhall be the
" loweſt Maintenance to each Kirk, except ſuch parti-
" cular Kirks occur wherein there ſhall be a juſt, rea-
" ſonable and expedient Cauſe to go beneath the Quan-
" tity now determined:" And this Act of Parliament referred to the Commiſſioners of Tiends the Conſideration of the Reaſons and Cauſes which might move them (after the Valuation of the true Worth of the Teinds of each Pariſh ſhould be cloſed) to determine and modify a leſs Quantity for the Miniſter's Maintenance, than the ſaid Quantity of Eight Chalder of Victual, or Eight hundred Merks in Victual or Money proportionally; and what the ſaid Commiſſioners ſhould determine therein was to ſtand, notwithſtanding the ſaid Ratification; and ratified and approved the Acts of the ſaid Commiſſion of Surrenders and Tiends, whereby Stipends are appointed and modified by the ſaid Commiſſioners already: and that the Lords of Seſſion direct Letters of Horning and Poinding, in favour of the ſaid Miniſters, conform thereunto upon one ſimple Charge of Ten Days allennarly; and alſo upon all other Acts to be made for Plantation of Kirks, by the Commiſſioners appointed by his Majeſty, and Eſtates, for that Effect.

4. The

4. The 19th Act of the Parliament of *Scotland*, *Anno* 1633, intituled, *Commiſſion for Valuation of Tiends not valued, rectifying the Valuations of the ſame already made; and other Particulars therein contained*----whereby the Commiſſioners of Teinds, thereby appointed, were impowered to proſecute and follow forth the Valuation of all Parſonage or Vicarage Tiends within that Kingdom; and to appoint Sub-Commiſſioners within any Pariſh or Presbytery, for leading and deducing ſuch Valuations; and, after the Cloſing and Allowance of the Valuations of each Kirk and Pariſh, to appoint, modify, and ſet down a conſtant and local Stipend and Maintenance to each Miniſter, to be paid out of the Tiends of each Pariſh, according to the Tenor of the Acts above ſpecified; referring to the ſaid Commiſſioners the Trial of the Reaſons and Cauſes which might move them to go beneath the Quantity of Eight Chalder of Victual, or of Eight hundred Marks of Money proportionally, in manner contained in the ſaid Act: And the ſaid Commiſſioners were thereby impowered to divide ample and ſpacious Pariſhes where the ſame ſhould be found neceſſary and expedient, or unite divers Kirks in Whole or in Part to others; and to ratify and allow, after Trial and Conſideration, ſuch Union or Diſmembring of Pariſhes, as had been formerly made by Virtue of the former Commiſſions; and to take Order, that every Heretor and Life-renter of Lands ſhould have the Leading of his own Tiends, Parſonage and Vicarage thereof, they paying the Price therein ſpecified.

5. 61ſt Act of the Parliament of *Scotland*, *Anno* 1661, whereby the Commiſſion for Plantation of Kirks and Valuation of Tiends was renewed; and the Commiſſioners therein named were impowered to value whatſoever Teinds were then unvalued, and to appoint conſtant and local Stipends to Miniſters, and to diſmember, annex, and unite Kirks, *&c.*

6. The 28th Act of the Parliament, *Anno* 1663.

The 15th Act of the Parliament, *Anno* 1672.
The 28th Act of the Parliament, *Anno* 1685.
The 22d Act of the Parliament, *Anno* 1686.
The 30th Act of the Parliament, *Anno* 1690.
The 23d Act of the Parliament, *Anno* 1693.

Whereby the Commiſſioners therein named were reſpectively impowered to value all Tiends, which, at the reſpective Times of the paſſing theſe Acts, were unvalued; and to appoint Sub-Commiſſioners, conform to the former Acts and Commiſſions for Valuation of Teinds; and, where Miniſters were not ſufficiently provided, or had not Localities aſſigned to them for their Stipends, out of the Tiends within the Pariſh where they ſerve the Cure, the ſaid Commiſſioners were impowered to modify, ſettle, and appoint, conſtant local Stipends to each Miniſter, out of the Tiends of the Pariſh where they ſerve the Cure, in ſo far as the ſame would amount to, according to the Quantities of Victual or Money mentioned in the ſaid Acts and Commiſſions; and to decide and proportion the ſaid Localities.

7. The 23d Act of the Parliament of *Scotland*, *Anno* 1690, intituled, *Act concerning Patronages*; whereby the Power of preſenting Miniſters to vacant Churches, exerciſed by Patrons, was diſcharged and made void; without Prejudice, to the Patrons, of their Right to employ the vacant Stipends on pious Uſes within the reſpective Pariſhes; except where the Patron is Popiſh, in which Caſe he was to employ the ſame on pious Uſes, by the Advice and Appointment of the Presbytery, as is therein mentioned: And it was thereby enacted, that in caſe of the Vacancy of any particular Church, and for ſupplying the ſame with a Miniſter, the Heretors of the ſaid Pariſh (being Proteſtants,) and the Elders, were to name and propoſe the Perſon to the whole Congregation, to be either approven or diſapproven by them; and, if they diſapprove, that the Diſapprovers give their Reaſons, to the Effect the Affair might be cognoſced upon by

by the Presbytery of the Bounds, at whoſe Judgment, and by whoſe Determination, the Calling and Entry of a particular Miniſter were to be ordered and concluded: And that if Application were not made by the Elderſhip and Heretors of the Pariſh to the Presbytery, for the Call and Choice of Miniſter, within ſix Months after the Vacancy, that then the Presbytery might proceed to provide the ſaid Pariſh, and plant a Miniſter in the Church *tanquam jure devoluto:* And, in Recompence of the ſaid Right of Preſentation thereby taken away, the Heretors and Lif-renters of each Pariſh, and the Town-Councils for the Burgh, were decreed to pay to the ſaid Patrons the Sum of Six hundred Marks, upon the ſaid Patron's granting a ſufficient and formal Renunciation of the ſaid Right of Preſentation in favour of the ſaid Heretors, Town-Council for the Burgh, and Kirk-Seſſion: and the Right of the Teinds of the ſaid Pariſhes, which were not heretably diſponed, ſhould, and thereby were declared to belong to the ſaid Patrons, with the Burden always of the Miniſters Stipends, Tacks, and Prorogations, already granted of the ſaid Teinds, and of ſuch Augmentations of Stipends, future Prorogations, and Erections of new Kirks, as ſhould be found juſt and expedient.

8. The Ninth Act of the laſt Parliament of *Scotland, Anno* 1707. intituled, *Act anent Plantation of Kirks, and Valuation of Teinds*, whereby the Lords of Council and Seſſion are impowered to judge and determine in all Affairs and Cauſes whatſoever, which were by Law referred to the Commiſſioners of Teinds; and particularly to grant Augmentation of Miniſters Stipends, to disjoin too large Pariſhes, to erect and build new Churches, to annex and diſmember Churches as they ſhould think fit, conform to the Rules laid down, and Powers granted, by the 19th Act of Parliament 1633. the 23d and 30th Acts of the Parliament 1690. and the 24th Act of the Parliament 1693. ſo far as the ſame ſtood unrepealed; the tranſport-

The 15th Act of the Parliament, *Anno* 1672.
The 28th Act of the Parliament, *Anno* 1685.
The 22d Act of the Parliament, *Anno* 1686.
The 30th Act of the Parliament, *Anno* 1690.
The 23d Act of the Parliament, *Anno* 1693.

Whereby the Commiſſioners therein named were reſpectively impowered to value all Tiends, which, at the reſpective Times of the paſſing theſe Acts, were unvalued; and to appoint Sub-Commiſſioners, conform to the former Acts and Commiſſions for Valuation of Teinds; and, where Miniſters were not ſufficiently provided, or had not Localities aſſigned to them for their Stipends, out of the Tiends within the Pariſh where they ſerve the Cure, the ſaid Commiſſioners were impowered to modify, ſettle, and appoint, conſtant local Stipends to each Miniſter, out of the Tiends of the Pariſh where they ſerve the Cure, in ſo far as the ſame would amount to, according to the Quantities of Victual or Money mentioned in the ſaid Acts and Commiſſions; and to decide and proportion the ſaid Localities.

7. The 23d Act of the Parliament of *Scotland*, *Anno* 1690, intituled, *Act concerning Patronages*; whereby the Power of preſenting Miniſters to vacant Churches, exerciſed by Patrons, was diſcharged and made void; without Prejudice, to the Patrons, of their Right to employ the vacant Stipends on pious Uſes within the reſpective Pariſhes; except where the Patron is Popiſh, in which Caſe he was to employ the ſame on pious Uſes, by the Advice and Appointment of the Presbytery, as is therein mentioned: And it was thereby enacted, that in caſe of the Vacancy of any particular Church, and for ſupplying the ſame with a Miniſter, the Heretors of the ſaid Pariſh (being Proteſtants,) and the Elders, were to name and propoſe the Perſon to the whole Congregation, to be either approven or diſapproven by them; and, if they diſapprove, that the Diſapprovers give their Reaſons, to the Effect the Affair might be cognoſced upon by

by the Presbytery of the Bounds, at whose Judgment, and by whose Determination, the Calling and Entry of a particular Minister were to be ordered and concluded: And that if Application were not made by the Eldership and Heretors of the Parish to the Presbytery, for the Call and Choice of Minister, within six Months after the Vacancy, that then the Presbytery might proceed to provide the said Parish, and plant a Minister in the Church *tanquam jure devoluto:* And, in Recompence of the said Right of Presentation thereby taken away, the Heretors and Lif-renters of each Parish, and the Town-Councils for the Burgh, were decreed to pay to the said Patrons the Sum of Six hundred Marks, upon the said Patron's granting a sufficient and formal Renunciation of the said Right of Presentation in favour of the said Heretors, Town-Council for the Burgh, and Kirk-Session: and the Right of the Teinds of the said Parishes, which were not heretably disponed, should, and thereby were declared to belong to the said Patrons, with the Burden always of the Ministers Stipends, Tacks, and Prorogations, already granted of the said Teinds, and of such Augmentations of Stipends, future Prorogations, and Erections of new Kirks, as should be found just and expedient.

8. The Ninth Act of the last Parliament of *Scotland, Anno* 1707. intituled, *Act anent Plantation of Kirks, and Valuation of Teinds*, whereby the Lords of Council and Session are impowered to judge and determine in all Affairs and Causes whatsoever, which were by Law referred to the Commissioners of Teinds; and particularly to grant Augmentation of Ministers Stipends, to disjoin too large Parishes, to erect and build new Churches, to annex and dismember Churches as they should think fit, conform to the Rules laid down, and Powers granted, by the 19th Act of Parliament 1633. the 23d and 30th Acts of the Parliament 1690. and the 24th Act of the Parliament 1693. so far as the same stood unrepealed; the transport-

porting of Kirks, disjoining of too large Pariſhes, and erecting and building of new Kirks, being always with the Conſent of Three-fourth Parts in Value of the Heretors of the Pariſh. Copies of the ſaid Acts of the Parliament of *Scotland* made in the Years 1617. 1621. 1633. and 1707. are annexed in the Appendix, No. I.

9. An Act of the Parliament of *Great Britain*, made in the Tenth Year of the Reign of Queen *Anne*, Chap. 12. intituled, *Act to reſtore the Patrons to their ancient Right of preſenting Miniſters to the Churches vacant in that Part of* Great Britain *called* Scotland, was alſo produced, and read to your Committee; whereby, after reciting, That, by the antient Laws and Conſtitutions of that Part of *Great Britain* called *Scotland*, the preſenting of Miniſters to vacant Churches did of right belong to the Patrons, until, by the 23d Act *Anno* 1690. the Preſentation was taken from the Patrons, and given to the Heretors and Elders of the reſpective Pariſhes; and, in place of the Rights of Preſentation, the Heretors and Life-renters of every Pariſh were to pay to the reſpective Patrons a ſmall and inconſiderable Sum of Money, for which the Patrons were to renounce their Right of Preſentation in all times thereafter; and that that Way of calling Miniſters had proved inconvenient, and had not only occaſioned great Heats and Diviſions among thoſe, who, by the aforeſaid Act, were intitled and authoriſed to call Miniſters; but likeways had been a great Hardſhip upon the Patrons, whoſe Predeceſſors had founded and endowed thoſe Churches, and who had not received Payment or Satisfaction, for the Right of Patronage, from the aforeſaid Heretors or Life-renters of the reſpective Pariſhes, nor had granted Renunciations of their ſaid Rights on that account; the ſaid Act, made in the Year 1693. intituled, *Act concerning Patronage*, in ſo far as the ſame relates to the Preſentation of Miniſters by Heretors, and others therein mentioned, was thereby repealed; and it was enacted, That, in all time coming, the Right of all and

every

every Patron or Patrons to the Preſentation of Miniſters to Churches and Benefices, and the diſpoſing of the vacant Stipends for pious Uſes within the Pariſh, ſhould be reſtored, ſettled, and confirmed; and that, from and after the Firſt Day of *May* One thouſand Seven hundred and Twelve, it ſhould be lawful for her Majeſty, her Heirs and Succeſſors, and every other Perſon or Perſons who had Right to any Patronage or Patronages of any Church or Churches whatſoever in *Scotland* (and who had not made and ſubſcribed a formal Renunciation thereof under their Hands) to preſent a qualified Miniſter or Miniſters to any Church or Churches whereof they are Patrons, which ſhould, at any time after the ſaid Firſt Day of *May*, happen to be vacant; and that the Presbytery of the reſpective Bounds ſhould, and were thereby obliged to receive and admit, in the ſame manner, ſuch qualified Perſon or Perſons, Miniſter or Miniſters, as ſhould be preſented by the reſpective Patrons, as the Perſons or Miniſters preſented before the making of the ſaid Act ought to have been admitted: Provided that in caſe the Patron ſhould neglect or refuſe to preſent any qualified Miniſter within Six Months after the Vacancy happens, that the Right of Preſentation ſhould belong, for that time, to the Presbytery of the Bounds, who are to preſent a qualified Perſon for that Vacancy, *tanquam jure devoluto*: And in caſe of Patrons beings Papiſts, who ſhall refuſe to take the Oaths and *Formulas*, ſuch Patrons Right of Preſentation for that Turn is thereby veſted in the Crown. Then

The Rev. Mr. *Thomas Randal*, an eſtabliſhed Miniſter of the Church of *Scotland*, informed your Committee, That there are ſeveral Miniſters, his Neighbours, under the Sum allowed by Law, which is 44 *l.* 8 *s.* 10 *d.* two thirds, who have not applied for Augmentation: And he ſaid, That his near Neighbour, Mr. *James Anderſon*, Miniſter of the united Pariſhes of *Lundy* and *Foulis*, had not applied; and the Reaſon which Mr. *Anderſon* gave him

him for not applying, was on account of the Expence; but whether the ſaid Mr. *Anderſon*'s Stipend is above the 44 *l.* he cannot tell; but he was ſure it was not 60 *l.* and thinks not 55 *l.* That his united Pariſhes are attended with a great deal of Trouble, and every one elſe thinks an Application for Augmentation would be attended with Succeſs; but the Witneſs does not know, whether he has any Decreet of Modification.-----Being croſs-examined, he was asked how many Heretors there were in the ſaid Pariſh of *Lundy* and *Foulis?* he ſaid, there were three or four; but could not tell what was the Expence of ſummoning an Heretor. Being asked, Whether he had ever been a Member of the General Aſſembly of the Church of *Scotland?* he admitted he had: And being asked, Whether it was not frequent for the Church of *Scotland*, in Cauſes of Augmentation, to defray the Expence, in caſe of Poverty; he anſwered, he knew little of the Accounts, nothing of his own Knowlege; but ſaid, knew in general where the Miniſters were very poor: and, from diſtant Iſles and Places, the Committee of Accounts have been apt to be indulgent to them as to the Expence; but ſaid, he did not know what Fund they had to do it. Being asked in regard to the Expence of living in that Part of the Country, he ſaid, That he lived within four Miles of Mr. *Anderſon*: That he, the Witneſs, had a competent Stipend, and that he ſpent it all without being thought extravagant; and that he believed Mr. *Anderſon* could but barely ſubſiſt on his. Being asked, Whether he heard Mr. *Anderſon* make a Computation of the Expence? he ſaid, That he believes Mr. *Anderſon* was ignorant of Law Affairs; that he had often asked the Witneſs his Opinion, and that he had told him, the Expences would amount to 27 *l.* Sterling, and that he believes he was deterred from an Application by the Expence; but had another Reaſon for his not applying, which was, That he lived well with his Heretors, and did not care to diſoblige them: And he ſaid, That he has

heard

heard that Heretors have been diſobliged by ſuch Proceſs, but did not know it of his perſonal Knowlege.

Mr. *John Campbell*, Merchant, being examined, ſaid, That he knew of Two Miniſters whoſe Stipends were under the Legals, who had never applied for an Augmentation, Mr. *Hunter*, Miniſter of *Newcumlock*, and the Miniſter of *Cambray*; and that he has heard of many by common Fame, who were in the ſame Circumſtances. And being croſs examined, he ſaid, That he had only heard it reported, that the Livings of thoſe two Miniſters above-mentioned were under the Legal, but they had never told him ſo themſelves; nor can he tell the Number of Heretors in thoſe Pariſhes: And that he has heard the Reaſons they did not ſeek for an Augmentation, was the great Expence, and the Fear of diſobliging the Heretors; but that he never heard thoſe particular Men ſay ſo. And further ſaid, That he had heard this ſeveral Years ago, before any Application of this Sort from the Clergy was thought of; and particularly from Mr. *Auld* of *Machlin*, who told him, he did not ſue for Payment of his Stipend on Account of the Expence: And that he has heard the common Expence of a Decreet of Augmentation is 29 *l.* or 30 *l.*

That he has heard the Value of the Living of *Newcumlock* is between 35 *l.* and 40 *l.* and *Cambray* about 30 *l.* and that he founded his Opinion of the Value of them from what he heard People ſay; and believes there are free Tythes in the Pariſh of *Cambray*. Being asked, Whether the Country where thoſe Two Pariſhes were ſituated was not as cheap as the cheapeſt Part of *England*; he ſaid, He could not anſwer that Queſtion, as he was unacquainted with *England*; but that a Fowl there coſt about 6 *d.* and far from Town 4 *d.* and a Boll of Meal coſt about Ten Marks, which is about 11 *s. Sterling*. He added, That ſeveral Heretors had taken amiſs the Application of the Clergy to the Parliament; but he

appre-

apprehends ſuch Diſguſt was confined to that Part of the Application only which relates to the Increaſe of the *Minimum*: They objected to the Miniſters ſeeking Augmentation in general, and the *Minimum* in particular.

The Petitioners reſted the Proof of this Part on the general Allegations of their Petitions, and the foregoing Evidence.

Then, in order to ſhew the Expence of obtaining a Decreet of Augmentation, the Sollicitor for the firſt Petition ſaid, That the Method is by ſummoning, which Summons muſt be executed by a Meſſenger at Arms, as the Law now ſtands, and cannot be executed by any other Perſon: To prove which, the Petitioners produced the 75th Act 1540. intituled, *The Order of ſummoning all Perſons in Civil Actions*; by which it is ſtatuted, That all Summonſes muſt be executed either Perſonally, or at the Dwelling-houſe: And the 12th Act 1693. intituled, *Act concerning Citations to the Firſt and Second Diet*; which provides, That all Copies of Summons, Charges, Inhibitions, Arreſtments, or other Letters whatſoever, given to the Party, ſhall bear at Length, and not in Figures, the Day and Date of the Delivery thereof, and alſo the Names and Deſignations of the Witneſſes, in ſuch ſort as the Execution and Indorſation did and doth bear; the ſame certifying the Meſſenger, who ſhall omit to inſert the ſaid Day and Date, and Witneſſes, in his Copy, that he ſhall incur Deprivation and Tinſel of his Office: The Act 9th 1707. *Act anent Plantation of Kirks, and Valuation of Teinds*, which ſtatutes, That the Lord Regiſter, and his Deputes ſhall have the ſole and only Power and Privilege of raiſing and ſubſcribing of the Summonſes and Diligences relating to Proceſs before the Commiſſion of Teinds, the ſame always paſſing her Majeſty's common Signet, as formerly.

Copies of the ſaid Acts 1540. and 1693. and the 9th Act of Queen *Anne*, 1707. all of the Parliament of *Scotland*,

land, were ſeverally read; Extracts whereof are annexed in the Appendix, No. I.

The Rev. Mr. *Thomas Randal,* being further examined, ſaid, That a Decreet of Locality is neceſſary to a Decreet of Modification: That he has heard of many Miniſters who had no Decreet of Locality; but receive their Stipends by what is called in *Scotland,* Uſe and Wont, *i. e.* by Cuſtom.

Mr. *John Ruſſel,* Writer to the Signet, ſaid, He was once employed as an Agent for a Miniſter, in ſuing for a Decreet for a Modification and Locality: Said, That ſome Miniſters have no Decreets of Locality; but he knows of none who have not a Decreet of Modification: That a Modification ſettles the *Quantum* paid to each Miniſter, and the Locality ſettles what Proportion each Heretor is to pay, and what Land ſhould pay it: That it is impoſſible to aſcertain the Expence of an Augmentation Cauſe; becauſe that muſt vary according to the Oppoſition given, and the Number of Heretors in Pariſh, and the Diſtance they live from one another; for it is neceſſary to employ a Meſſenger in ſummoning the different Heretors, who is obliged to take with him Two Witneſſes; and when he executes ſuch Summons, the Names and Deſignations of the Two Witneſſes muſt be in the Copy delivered to the Defendant, and they muſt ſign the Return: And that Summonſes executed in any other Manner are in themſelves void: And the ſaid Summonſes are either to be ſerved perſonally, or at the Dwelling-houſe of the Defendant. And it is the Rule to allow the Meſſenger, for himſelf and Two Witneſſes, One Shilling a Mile from the Place of his Reſidence, and One Shilling for each Copy he delivers to the Defendants, if they don't exceed Three in Number, and Six-pence each Copy, if they are above Three, and lie near; but this Rule is not certain: That Complaint being made of the Exorbitancy of the Meſſengers Fees to the Lords of Seſſion, it was referred by the Lords to

the Writers of the Signet; who gave it as their Opinion, That the aforeſaid Charge was ſufficient; but the Meſſengers petitioned againſt that Opinion; and the Matter remains ſtill undetermined, and the Cuſtom is to make the beſt Bargain they can for their Clients.

He further added, That ſome Pariſhes conſiſt of One hundred Heretors, and ſome of only One: That they often live at a Diſtance from one another; and that a Citation from the Desk would ſave the Meſſengers Fees, if they are not employed: That it is a greater Expence for a Miniſter to ſue for his Stipend, where he has no Decreet of Modification or Locality, than when he has ſuch Decreet.

And in a Suit, in which he was concerned, where the Lawiers took no Fees, and the Miniſter paid Part of the Expence of the Execution of the Summons himſelf, the Expence amounted to between Eight Pounds and Ten Pounds; but that he could not ſay what was the Expence in general; becauſe he had never been but once employed for a Miniſter, though ſeveral Times for the Heretors.

Being croſs-examined, he ſaid, That there are Meſſengers in the Country; but where Buſineſs is ſmall, they live far diſtant from one another; And knows an Inſtance, where a Meſſenger has been ſent Eight Miles from his Reſidence; That the Perſon for whom he brought the ſaid Suit, was Mr. *Henry Miller*, the Miniſter of the Pariſh of *Neilſton*; which Stipend was below the Legal; and that the Lords of Seſſion augmented his Stipend from four Bolls leſs than Eight Chalder (which is the Legal in Victual) to Ten Chalder; which, when converted into Money, would amount to 83 *l.* 6 *s.* 8 *d.* and that the Value of his Stipend, before it was augmented, amounted to 63 *l.* 6 *s.* 8 *d.* in Money.

Being ask'd, whether it was not uſual for the Lawiers to take no Fees in the Caſes where the Clergy were concerned, and whether the other Subjects of *Scotland* were not under the ſame Difficulty in point of Summoning? he

he ſaid, That he had known ſome Caſes where the Lawiers had refuſed Fees from the Clergy, upon account of particular Connections; but has known an Inſtance, where Lawiers have taken Fees: And he ſaid, That every other Subject in *Scotland* is under the ſame Difficulty, as to the Summoning by Meſſengers, as the Clergy. He further added, That he knew Four or Five Pariſhes, which conſiſted of One hundred Heretors each, upon account of the Eſtates being lett out to ſmall Fewers; and mention'd particularly *Lochquinnoch*, in the Shire of *Renfrew*; but he don't know, whether that Living is above or under the Legal.

And being ask'd, he ſaid, He apprehended an Act, made in the laſt Parliament of *Scotland*, whereby the Juriſdiction concerning the Plantation of Churches, and Valuation of Tythes, was veſted in the Court of Seſſion, was, in his Opinion, for the Benefit of both Clergy and Laity.

That he thinks the Court of Seſſion has a Power of leſſening ſuch Fees as are not ſettled by Act of Parliament; and that the Meſſengers Fees are not fixed by any Act. He was further asked, whether the Court of Seſſion could alter their Acts of *Sederunt* when once eſtabliſhed? He ſaid, He was of Opinion they could; tho' he does not remember an Inſtance where they did it.

Mr. *George Chambers*, Clerk to the Signet, ſaid, He was never concern'd as Agent for a Miniſter in an Augmentation Cauſe; but has been for the Heretors: That the Method is to ſummon all the Heretors; and that ſuch Summonſes paſs under the Signet; That the Expence depends on the Number of Heretors, and the Nearneſs of the Place, the Meſſengers Fees being One Shilling a Mile, and One Shilling a Copy, if Three or Four Copies, and, if a greater Number of Copies, Six-pence or Eight-pence for each Copy, if nigh; and that the Shilling a Mile is allow'd from the Place of the Meſſenger's Reſidence, who is obliged to carry Two Witneſſes with him,

if

if he can't find them at the Place; and that he ordinarily carries them with him. He further added, That the Heretors live in ſome Places nigher, in ſome more diſtant from one another; and he believes, in the Pariſh of *Invereſh* the Number of them greatly exceeds Forty or Fifty: And that if a Meſſenger neglect to ſummons properly, without Two Witneſſes, the Summons would be illegal. And he ſaid, He never was concerned for a Miniſter in a Decreet of Augmentation, but that he had heard the Expence thereof would be Twenty Pounds, or Thirty Pounds, when there is no Oppoſition; but could not tell of his own Knowledge; and that the Expence of the Heretors, if litigated, would be above that Sum: And that a Citation from the Desk, without Doubt, would greatly leſſen the Expence: And that, in his Opinion, the Lords of Seſſion have not a Power to make a Citation from the Desk legal; as he apprehends, it is fixed by Statute: But that is a Point of Law.

Being croſs-examined, he was asked, Whether, if the Method of Summoning ſhould not appear to be fixed by Statute, but only by Act of *Sederunt*, whether, in that Caſe, the Lords of Seſſion could not alter it: He ſaid, That, as it is a Cuſtom introduced by common Law, he ſhould think it equal to a Statute, and that the Judges could not vary it; but could not ſay whether the Commiſſioners of Teinds did not ſummons by a Meſſenger before 1706; and, in caſe it ſhould appear to have prevail'd only ſince the Year 1706, he cannot ſay whether they could alter it: And does not know how the Commiſſioners of Teinds uſed to ſerve their Summons before the Union: That he was one to whom the Lords of Seſſion referred the Regulation of the Meſſengers Fees; and thinks the Lords of Seſſion have a Power to regulate them.

As to the Lawiers refuſing Fees from the Clergy, he knows one who refuſes them; but thinks the general Practice is to take them.

Being

Being further examined, he ſaid, He believed that if Summonſes are not executed according to the 75th Act 1540. they are null and void; and that the Lords of Seſſion have nothing to do with Summonſes till they come to Judgment, ſuch Summonſes being regularly directed, under the King's Signet, to Meſſengers at Arms, and to them only: That he believes, the Lords of Seſſion can by Act of *Sederunt* remedy any Grievance in Proceſs for the Eaſe and Good of the Suitor, unleſs the Form is eſtabliſhed otherwiſe by Law, or inveterate Cuſtom of common Law, which has been obſerved for Ages. Being ask'd, whether inveterate Cuſtom can be eſtabliſhed ſince the Union? he ſaid, He could not ſay: That if it was to alter another Cuſtom, and if the preceeding Cuſtom had been different, he thinks the Lords of Seſſion might alter it; and that, in his Opinion, the Lords of Seſſion have a Power to alter any Thing in the Name of Proceſs before the Court of Seſſion, though eſtabliſhed by ever ſo inveterate a Cuſtom, where no expreſs Statue interveens; and that they can alter their own Acts of *Sederunt*.

Mr. *David Bruce* ſaid, He was acquainted with the Highlands and Iſles; that Summoning was dangerous in thoſe Iſles; that ſome of the Pariſhes were thirty Miles long, when Meſſengers muſt have a great Way to ride; but that thoſe Pariſhes are chiefly in the Hands of a few Heretors; and that the Expence of all Law-ſuits is as great to all other Perſons as the Clergy.

In Support of that Part of the firſt Petition, which complains of bad Payment of Miniſters Stipends, the following Evidence was laid before the Committee.

Mr. *Ruſſel*, being further examined, as to the Payment of Stipends, ſaid, He knows ſome Heretors, who have been ſued for the Payment of Stipends; and that he himſelf carried on an Action for Mr. *Macvey*, the Miniſter of *Mairnes* in *Cheſdale*, who had no Decreet, and was obliged to ſue upon Uſe of Payment; which is more expenſive,

expenſive, becauſe the Miniſter is obliged to ſue every Year; whereas, when there is a Decreet, the Proceſs comes to an Iſſue in ten Days Time: That he cannot ſay whether the Stipend of the Pariſh of *Mairnes* is above or below the Legal; that thoſe Stipends he had ſued for had been ſome of them due two or three Years; but could not remember the particular Time; and that, as Writer to the Signet, he had ſigned ſeveral Hornings for Miniſters, who had ſued; and had known Heretors diſobliged by taking out ſuch Hornings.

Being asked, Whether it would not ſave Expence, and preſerve Peace, if, inſtead of Horning, Intereſt were allowed half a Year after the Stipend is due? he ſaid, That in his Opinion it would, if the Perſon who pays it valued the Intereſt more than the Charge he muſt be put to afterwards: That it would ſave Expence when Tenants pay the Stipends, becauſe the Landlords would not allow the Intereſt: And that in the Parts of *Scotland*, where he is concerned, it is the Cuſtom for the Tenants to pay the Stipends, they being obliged by their Tacks to do ſo: And that in other Parts it is not, the Landlords paying it, as the Cuſtom is.

Being croſs examined, he ſaid, That the Laity were as ill paid as the Clergy; and that where he has been concerned, the Non-payment of the Clergy has proceeded more from Diſputes than Inability: And that thoſe Diſputes aroſe partly from the Right being diſputed, and partly from Humour; for if a Miniſter comes into a Pariſh, contrary to the Inclination of a Heretor, he makes it as diſagreeable to him as he can.

And being further asked, if the Law was not more favourable to the Clergy, for the Recovery of Stipends, than to other Subjects, for the Recovery of their Debts, he ſaid, It was not, if they are to ſue at common Law: But in Caſes, where they have a Decree, they have general Letters, which makes the Horning ſhorter: And the Expence of a Miniſter's Horning is leſs than another Horning;

Horning; the other Horning paying 3 *s.* 1 *d.* ⅓ at the Signet, and the Clergy only pay 10 *d.*; and the Fees to the Clerk is the ſame in both Caſes; and that the Expence of Horning to a Clergyman, where a ſingle Heretor only is concerned, is about half a Crown, if it is one Sheet.

That the Denunciation is ten Days after the Horning, and that the Stipend bears Intereſt as ſoon as the Horning is recorded; all which Forms may be executed in twelve or fifteen Days, from the firſt Commencement, if it is not hindred by the Diſtance of Place.

And being asked, if a Horning did not put a Stop to the Tenants paying the Landlords their Rent? he ſaid, It did; but that is a Way one would not adviſe, becauſe that muſt be attended with another Expence, in paying the Meſſenger to make the Goods furth coming you have under Arreſt: And he muſt have another Decree upon it, and, if they refuſe to pay, muſt raiſe another Horning.

Being asked, whether or not, when a Miniſter puts a Heretor to the Horn, and he is denounced, if he can get rid of that without paying the Debt, Intereſt and Coſts, and One-fifth Part more? he ſaid, the Debt he muſt pay; but if the Stipend is Victual, it bears no Intereſt; if Money, it does; in which Caſe he muſt pay it: As to Coſts, the Miniſter is intitled to them; but he muſt ſue for them again: And he believes there is an Act of Parliament for the Fifth Part more than the Coſts.

And being asked, Whether the Clergyman has a Right to Coſts of the Suit, in which he ſues for Coſts? he ſaid, He thinks that is arbitrary in the Judge: That he the Witneſs was concerned in a Caſe for the Miniſter of *Mairnes*, which was ſuſpended, where the Miniſter had no Decreet of Locality, but had a Decreet of Modification: The Diſpute was on Account of his Predeceſſor's having accepted of Seven Stone and One half, inſtead of Eight Stone, for each Boll; which is the complete

plete Boll. The Miniſter brought his Action, and prevailed in it; but the Lords refuſed Coſts, which were very conſiderable, becauſe of the Uſe of Payment formerly; but ſaid, He did not know any Inſtance where the Lords refuſed Coſts, except where they thought it a doubtful Caſe.

On the Evidence being asked, Whether the Court of Seſſion have ever refuſed Coſts to a Miniſter where there was *Probabilis Cauſa Litigandi*? he ſaid, They had refuſed it in ſome Caſes, were he thought the Cauſe of Diſpute reaſonable.

And being asked, Whether it is not uſual for the Heretors rather to pay Coſts, than to put them to Suit? he ſaid, He thought the Uſage the other Way: That one Writ will ſerve a Clergyman his Life-time; but he muſt ſerve it each Time, which is the ſame in caſe of a Leaſe; for one Horning ſubſiſts during the Tenant's Poſſeſſion: But in other Caſes, other Subjects are obliged to have a particular Writ againſt every Debtor: And in the Caſe of the Clergy, the Debtor muſt conſign the Money in Court, before the Horning can be ſuſpended; but in other Caſes, they may give Security; And he ſaid, if Stipends ſhould be made to carry Intereſt, and a Perſon, through Inability, or for any other Reaſon, could not, or would not, pay it, the Miniſter could not recover it by any other Method, but by a Horning, that he knew of: And being asked, Whether if he muſt proceed, in that Caſe, to a Horning, the Peace of the Pariſh would be preſerved more by the Heretors paying a Debt with Intereſt, than without? he ſaid, That was Matter of Opinion; and he ſaid, It was in the Option of the Miniſter, either to take the Stipend from the Landlord, or the Tenant; and that if the Landlord was inſolvent, the Tenant would be obliged to pay: That every Miniſter, ſince the Year 1617, has had it in his Power to obtain a Decreet for fixing his Stipend, which, when once ſettled, ſerves equally for his Succeſſors; and that, even

upon

upon Production of a Horning for a deceaſed Miniſter, he had raiſed a Horning for his Succeſſor. As to the Expence of charging upon the Horning, he ſays, It is 1 *s.* if the Meſſenger lives in the ſame Place; if at a Diſtance, the ſame as for citing: The Expence of Denunciation is uſually 1 *s.* if many Names, ſomething more: And that of Regiſtration is 20 *d.* a Sheet in the general Regiſter, and 16 *d.* in the particular Regiſtry; all which muſt be done annually, as the Stipend becomes due, in caſe there is no Decreet of Locality: And that he had known Perſons agree with Meſſengers by the Lump; and that the moſt of the Expence of following a Horning without Oppoſition, in the Witneſs's Practice, has only amounted to a Guinea. And being further asked the Reaſon, why Clergymen did not ſue for Decreets of Modification and Locality, he anſwered, That he could ſay nothing to it in general; that he adviſed the ſaid Mr. *Macvey* to ſue for a Decreet of Locality, rather than ſue every Year; who declined it, upon account of the great Expence, which the Witneſs believes would have amounted to 40 *l.* or 50 *l.* as there were many ſmall Heretors, and he was not liked; and every one would have battled it with him; and that the Coſts of two Suits, in which the Witneſs was employed for Mr. *Macvey*, coſt him, as he believed, about 10 *l.* each Suit: But if the Right was eſtabliſhed, that Expence would not follow in ſucceeding Years; for, in that Caſe, the Lords of Seſſion would puniſh the Heretors for Obſtinacy: In the laſt of which Suits, Part of the Coſts were decreed and paid, to the Amount of 5 *l.*: But the Coſt of extracting the Decree was not paid, which came to 5 *l.*: But in the firſt, nothing was paid, it being a diſputable Caſe. And being asked, Whether, if the Right to the Stipends was once eſtabliſhed, that Expence of 10 *l.* would follow in ſucceeding Years, he ſaid, He thought not; for, in ſuch Caſe, the Court would puniſh the Defendants for their Obſtinacy: That

he can't say to what Value Mr. *Macvey* recovered by the first Suit; but it was not much more than the 10 *l.*; And that his whole Income, as the Witness thinks, was near the Legal, which is 44 *l.* 8 *s.* 10 *d.* Mr. *Macvey* told him it was near the Legal, exclusive of Four Acres of Glebe, and that the Expence proceeded rather from the Litigiousness, than the uncommon Number and Distance of Heretors. Being asked, Whether he thought, in general, the *Scots* Clergy had Reason to complain of bad Payment of their Stipends; and whether they were not better paid than other People; he said, He believed they were as well paid as other People: And being asked, Whether the Clergy were better paid, he said, Very much like other People: And being asked, Whether in the Parishes where the Tenants pay the Stipends, they do not pay them as regular as the Landlords, he said, That depends on the Humour of Tenants, whether they like the Ministers or not; but there are many Seceders, and they don't pay so well as others: And that, in most Parishes where he is acquainted, they like their Ministers, and pay them as well as the Landlords: That in an Estate where he collected the Rents, he paid the Minister before hand: And being asked, Whether Ministers had not a Preference before others, in case of their Stipends being due, he said, They had the *Debitum Fructuum*.

Mr. *Campbell*, being further examined, said, That Mr. *Steel*, Minister of the Parish of *Dalgain*, (where he lived) whose Veracity he could trust to, had complained to him, that Part of his Stipend had been in Arrear Five or Six Years; and that he had held that Conversation with Mr. *Steel* about a Twelvemonth ago; since the Augmentation Scheme was on foot: That he did not know whether Mr. *Steel* had sued for it; and that Mr. *Steel* did not tell him the Reason it was unpaid, or the Person's Name who had not paid him: And that he did not know, whether it proceeded from Inability, or whether there was any Dispute about it or not: That

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Mr. *Steel* lived on good Terms with his Heretors: That his Stipend is above Forty-four Pounds; and that he believes the Clergy in *Scotland* are generally as well paid as the Landlords.

Then the Petitioners produced to the Committee Copies of the Proceedings of the General Aſſembly of the Church of *Scotland*, in the Year 1649. and 1750. whereby it appeared, that the Petitioners were, on the 18th of *May* 1750. appointed Commiſſioners from the General Aſſembly, to apply to the King and Parliament, for the Purpoſes mentioned in their Petition: Which Proceedings are annexed in the Appendix, N°. II.

Then the Agent for the Petitioners, in the ſecond Petition, proceeded to anſwer the Evidence given by the firſt Petitioners; and to prove the Allegations contained in the ſecond Petition: And for that Purpoſe he inſiſted, that the General Aſſembly's Reſolution of the 17th of *May* 1750. is reſtrained ſingly to the Expence occaſioned by the Meſſengers executing the Summons: And that, before the Union, it was not neceſſary, in Proceedings before the Commiſſioners of Tiends, to ſummon the Heretors by a Meſſenger: That the Fees appointed by Law for Meſſengers executing Summons were very moderate: That if they extorted larger Fees, or there were any Inconveniencies in the preſent Method of ſummoning by a Meſſenger, the Lords of Seſſion, as Commiſſioners of Tiends, had a Power to rectify it; and would, on a proper Application to them, correct the ſame by an Act of *Sederunt*: And the aforeſaid Copies of the Proceedings of the General Aſſembly of the Church of *Scotland* in 1749. and 1750. which had, as aforeſaid, been produced by the firſt Petitioners, and is entituled, *Extract Proceedings of the General Aſſemblies* 1749. *and* 1750. *anent the Augmentation of Miniſters Stipends, mentioned in their Petition*, were read; whereby it appears, that the General Aſſembly in *May* 1749. appointed a Committee to conſider of the Scheme for Augmentation of Miniſters

ters Stipends; who were impowered to get an Account of the juſt Value of all the Stipends in *Scotland*; the Extent of their Glebes; to inquire into the true Extent and State of the Tythes; and to prepare a Plan of the whole projected Augmentation, to be laid before the General Aſſembly; That on the 12th of *May* 1750, the Committee made their Report to the General Aſſembly; and thereby, among other Things, reported, That in Return to the Letters and Queries ſent to the Presbyteries, they had received Reports concerning 780 Benefices, and other Facts reſpecting the Pariſhes theſe belong to; from which, together with the Account of Fifty-three Stipends more, contained in the atteſted Abſtract from the Records of the Commiſſion of Tiends, they had cauſed inſert into a Book, which they had ordered, to be prepared for that Purpoſe, a State of 833 Benefices, and other Facts relating to them, reduced to proper diſtinct Columns; and that, from the ſaid Scheme Book, the Committee had cauſed to be drawn out an Abſtract of the principal Facts which was therewith produced; from whence it appeared, that of theſe 833 Benefices 65 were under the preſent legal *Minimum* of 800 Marks, or 44 *l.* 8 *s.* 10 *d.* $\frac{2}{3}$ Sterling; and that, upon the whole, the Plan of the projected Augmentations, which the Committee offered to the General Aſſembly, was firſt to have the *Minimum* of Stipends raiſed to what is above propoſed; that is to ſay, That the *Minimum* all over *Scotland* (except in *Orkney* and *Zetland*, and the Shires of *Merſe* and *Tiviotdale*, where the Circumſtances are ſomewhat ſpecial) ſhould be Ten Chalders of Victual, or its Value, according to its uſual Converſions: That in *Orkney* and *Zetland* it ſhould be a Quantity of Victual equal in Value to ten Chalders in the Shire of *Sutherland*; or the Value in Money of ſuch a Quantity of Victual; and that in *Merſe* and *Teviotdale* it ſhould be ten Chalder, or its Value in Money; together with as much Money as to make

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up the whole Stipend to 1000 *l. Scots*, or 83 *l.* 6 *s.* 8 *d.* Sterling.

That, in caſe of obtaining any Addition to the legal Glebes, a proportional Deduction ſhould be made from the ten Chalders of Victual, or its Value.

That in Proceſſes for Augmentations, the Law might direct the Method of citing Heretors to be, ſummoning them at the Church Door, by a Meſſenger; and the Miniſters writing to non-reſident Heretors, the laſt of which ſhould be inſtructed by a Certificate under the Miniſters Hands: That there may be a Law enacting, That in caſe the Stipend, or any Part of it, ſhall not be paid at the Term of *Whitſunday* or *Martinmas* after it becomes payable, then it ſhall bear Intereſt from the Term of Payment. That the General Aſſembly having, on the 17th of *May* 1750, taken the ſaid Report into Conſideration, reſolved on an humble Application to be made to the King and Parliament, for the following Purpoſes: That in raiſing of Summonſes for Modification, Locality, or Augmentation of Stipends, inſtead of the uſual Method of ſummoning by a Meſſenger, it ſhall be ſufficient, that a general Citation be made by every Pariſh Clerk, from his Desk, upon a *Lords Day*, immediately after Divine Service in the Forenoon; and that Letters be wrote by the Moderator of the Presbytery to the abſent Heretors, except ſuch as are forth of the Kingdom, who are to be ſummoned by a Meſſenger, at the *Market Croſs* of *Edinburgh*, Pier and Shore of *Leith*: That it ſhall be in the Power of the Moderator, with Conſent of the Presbytery, to purſue for Modification, Locality, or Augmentation, whether there be a Miniſter ſettled in the Pariſh, or the Pariſh be vacant: That Miniſters Stipends, if not paid within the Year, ſhall bear Intereſt from the firſt Half-year after they become due: That Power be given to the Commiſſioners of Teinds to ſuppreſs Pariſhes, which they find not proper to be continued ſeparate Pariſhes, and to annex them to one or more

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of the adjacent Pariſhes: That the ſaid Commiſſion have likewiſe a Power to alter the Diviſions of Pariſhes on a View to divide them, as they ſee Cauſe: The General Aſſembly inſtructs thoſe to be commiſſioned by them, moſt humbly to pray for Relief in the Premiſes, and for ſuch further Relief as to his Majeſty, and the two Houſes of Parliament, ſhall, in their great Wiſdom, ſeem meet: And it was declared, by the Moderator from the Chair, to be the Mind of the Aſſembly, that by this laſt Clauſe it was underſtood, that the Commiſſioners to Parliament might apply for an Increaſe of the *Minimum*.

And, in order to ſhew, that there is no Neceſſity in Proceedings before Commiſſioners of Teinds, to ſummon by Meſſengers, ſeveral Parts of the ſaid Acts made in 1617. and 1633. whereby the Commiſſioners were impowered to ſummon and call the Parties before them, were read: And to prove, that the executing Proceſs by a Meſſenger, is only required in civil Actions, the foreſaid Acts, No. 75. *Anno* 1540. and No. 12. *Anno* 1693. were ſeverally read.

And then the Agent for the Second Petitioners preceeded to anſwer the particular Inſtances mentioned by the Firſt Petitioners Witneſſes.

And to ſhew, that the Pariſh of *Lundie* and *Foulis*, mentioned in Mr. *Randal*'s Evidence, is above the Legal, and conſequently not intitled to an Augmentation, being ſufficiently provided for, the Book mentioned in the Report of the Committee to the General Aſſembly, commonly called *The Scheme-Book*, was produced; by which the Value of that Living appears to be 53 *l.* 6 *s.* 8 *d.* and the Glebe 3 *l.* 6 *d.* 8 *d.*

And, in Anſwer to the Two Inſtances mentioned by Mr. *John Campbel*, of Mr. *Hunter*, the Miniſter of *New-Cumlock*, and the Miniſter of *Cambray*, not ſuing for Augmentations, the ſaid Scheme-Book was again produced; whereby it appears, that Mr. *Hunter*'s Stipend is 41 *l.* 13 *s.* 4 *d.* And the Miniſters Returns mentioned and referred

ferred to in the above-mentioned Report to the General Aſſembly, were alſo produced; whereby it appears, *p.* 441. that there is only one Heretor in the Pariſh of *New Cumlock*: And as to *Cambray*, it appears by the Scheme-Book, that the Miniſter's annual Stipend is 34 *l.* 17 *s.* 11 *d.* $\frac{1}{3}$ And by the Miniſter's Return, *p.* 641. that that Pariſh was formerly in the Biſhoprick of the *Iſles*; and that his Predeceſſor obtained Two Orders from the Lords of the Treaſury in *Scotland*, in 1707 and 1708, on the Synod of *Argyle*, for an Increaſe of his Stipend out of the Biſhops Rents, received by the Synod, or their Collectors; but that the Synod paid his Predeceſſor only 100 *l. Scots*, for One Year, ſaying their Funds were not ſufficient to anſwer thoſe Orders: And as to the Pariſh of *Neilſton*, mentioned by Mr. *Ruſſel*, it appears by the Clergy's ſaid Scheme-Book, that the Miniſter's Stipend in that Pariſh, before his Augmentation, was 64 *l.* 3 *s.* 8 *d.* $\frac{1}{3}$: As to the Pariſh of *Lochquinnoch*, alſo mentioned by Mr. *Ruſſel*, the Stipend appears to be 66 *l.* 13 *s.* 4 *d.* for which the Miniſter, in his Return, *p.* 744, owns there has been a Decreet; and that it is payable by 58 Heretors: And as to the Pariſh of *Irvorach*, mentioned by Mr. *George Chalmers*, it appears by the Clergy's ſaid Scheme-Book, and the Miniſter's Return, *p.* 123, that the Stipend is 87 *l.* 8 *s.* 11 *d.* $\frac{1}{4}$; for which he has a Decreet, beſides a Glebe of 7 *l.* 3 *s.* 9 *d.* in all 92 *l.* 2 *s.* 11 *d.* $\frac{1}{3}$

Robert Craigie, Eſq; Advocate, being asked, Whether, in Augmentation Cauſes before the Commiſſioners of Teinds, by the Law of *Scotland*, it is neceſſary that a Summons ſhould be ſerved by a Meſſenger, declared it as his Opinion, That the Commiſſion for Plantation of Kirks, and Valuation of Teinds, firſt appointed by the Act of Parliament 1633, was not, in his Opinion, a Court of Law; but a Commiſſion appointed by Parliament for executing certain Things, that were then introduced into the Law of *Scotland*, with relation to Teinds: Firſt, That they ſhould value all the Teinds of

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the Nation, with a few Exceptions: Secondly, That when the Teinds were ſo valued, they ſhould allocate a Stipend to the Miniſter of every Pariſh out of the Teinds of his Pariſh: Thirdly, That they ſhould ſettle an Annuity, payable to the King, out of the ſurplus Teinds: And, Fourthly, That they ſhould ſell the remaining ſurplus Teinds to every reſpective Heretor: That it was committed by Parliament to this Commiſſion, to execute thoſe ſeveral Powers, according to ſuch Rules as they ſhould lay down: And the Rules and Ordinances made by them are declared to have the Strength of an Act of Parliament: That, purſuant to thoſe Powers, the Commiſſioners appointed Sub-Commiſſioners in every Presbytery, to whom they gave certain Rules and Directions; and thoſe Sub-Commiſſioners ſtated the Rate of the Tiends, as they appeared to them by the Oaths of the Heretors, or by a Proof by the Titular; and, failing both thoſe, by a Proof brought at the Suit of the Procurator Fiſcal: That the Value of the Tiends ſo ſettled by the Sub-Commiſſioners was reported to the High Commiſſion: And he has ſeen Inſtances, where the High Commiſſion, upon thoſe Reports, without ſummoning any Parties, valued the Teinds, or approved of their Reports, and modified a Stipend to the Miniſter of the Pariſh, without any Summons whatſoever: That no Meſſenger was employed before the Sub-Commiſſioners; and, ſo far as he knows, in theſe Caſes, before the High Commiſſion: That the after Commiſſioners were veſted with the ſame Powers, down till ſome time after 1661: But from that Period, there is no Mention of their Power of receiving Reports from Sub-Commiſſioners: But it does not appear that their Powers were abridged with reſpect to the Method of ſummoning Parties before them, or any thing that ſeems to purport, that they became an ordinary Civil Court, and ceaſed to be a Commiſſion of Parliament, ſimilar to that in 1633: And underſtood, that the Method of ſummoning Parties before the Com-

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miſſion, downwards till the Union, depended upon the Rules ſettled by the reſpective Commiſſioners: And when the Powers of the Commiſſion were veſted in the Court of Seſſion in 1707, he conſidered the Court as veſted with the ſame Right of directing the Summonſes before them: At the ſame time it hath not occurred in his Practice, ſince the Union, to obſerve any Summons, of whatever kind, executed before that Court, except by Meſſengers at Arms; But, at the ſame time, it is his humble Opinion, that the Court of Seſſion has the ſame Powers by that Act, that the former Commiſſioners of Parliament had; and that he apprehended the Court of Seſſion, as Commiſſion of Teinds, have a Power to regulate any Officers, employed in executing Proceſs before their Court, and to ſettle their Fees, in caſe they ſhall be complained of as exorbitant.

Being croſs-examined, he ſaid, He could not tell whether Summonſes to appear before the Commiſſion of Teinds always paſs the Signet; and that he did not conſider a Proceſs of Augmentation as a Civil Action; and that Summonſes have been executed, as far as falls within his Knowledge, ſince the Union, according to the Directions of the Act of 1540, either perſonally, or at the Dwelling-houſe: That a Decree can go againſt no Party but who is ſummoned as a Defender, and a Party; but, in a Proceſs of Modification, a Party may be called by an incident Diligence, and a Decreet will go againſt him, as if he had been ſummoned as a principal Party: And that he will add another Speciality on this Head; That it is a Rule in Civil Actions, that a Decreet is void, if it is *ultra petita*, i. e. beyond the Purſuer's Libel; but has known the preſent Commiſſion give a Stipend higher than was claimed by the Miniſter in his Libel, and conſider'd it as within their Power, as they were not Judges in a Civil Action, but ſtill Commiſſioners for providing for the Miniſters, as they ſhould think fit, without any Dependence upon his Claiming, or his Libel. And, being aſked,

Whether the Twelfth Act in the Year 1693, which directs certain Proceſſes to be executed by Meſſengers at Arms, did not extend to all Summonſes before the Commiſſioners of Teinds; he ſaid, He thought it did not; and thinks the Lords of Seſſion, as Commiſſioners of Teinds, can alter their Acts of *Sederunt*; though he knows no Inſtance of it; and that it never appear'd to him, upon looking into former Decrees, That there was any particular Rule ſettled for ſummoning by the Commiſſioners of Teinds; and remembers to have ſeen ſome Summonſes executed by a Sheriff or Officer in that Part; and that he had ſeen ſome Proceedings before the Union, which appear to him not to have been executed by a Meſſenger, but by another Officer appointed by the Commiſſioners; but can't recollect any Caſes, at that time, where it was ſaid to be ſerved by a Meſſenger at Arms.

And being ask'd, Whether it was not the frequent Practice before the Union, that the Modification and Augmentation of Stipends proceeded by way of Action, Plantiff and Defendant; he ſaid, He had ſeen it ſo, and ſeen it otherways; and ſaid, That upon thoſe Decreets of the Commiſſioners, before the Union, the Miniſter had the Proceſs of Law for the Recovery of the Stipend, and that they were equally effectual; and he has ſeen where they have given them Graſs and Glebe, which they had no Title to do; but don't know any Inſtance, ſince the Union, where the Court of Seſſion, as Commiſſioners of Teinds, have made a Decree of Modification or Augmentation, without a Proceſs, or Suit of the Miniſter: And he ſaid, That the incident Diligence is executed againſt the Party in the ſame way as the original Summons.

And being ask'd, What was the Difference between a Proceſs and a Decreet by the Commiſſioners of Teinds for Modification, *&c.* obtained by a Miniſter, and any other Civil Action? He ſaid, He conſider'd them as

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ſtill having a Power, if they thought fit, to modify a Stipend without an Action, and to give a higher Stipend than the Miniſter craves by his Action; and does not think that the Power of this Commiſſion is gone into Diſuſe, but that they have a Power to reſume it; and he does not know any Inſtance in his Practice, where the Commiſſion has regulated the Expences.

He further added, That he believ'd a Method might be deviſed to make Proceſſes for Stipends leſs expenſive; but it would require a good deal of Deliberation and Knowledge in the Proceſs of that Court to bring it about, particularly by ſummoning from the Desk; and he wiſhes it were ſo: But thinks, it is in the Power of the Court to eſtabliſh that ſhort Way of ſummoning, without the Aid of Parliament: And ſaid, It is not the Practice to give Coſts in the Actions at the Suits of Miniſters for Augmentations.

Being ask'd the Queſtion, he ſaid, That, by a general Valuation of Tythes, he meant, That a Plan was laid down for an univerſal Valuation of all Teinds by the Authority of the Commiſſion of Surrenders, and the Commiſſion in 1633, without any particular Application by the Heretors of the Lands, or the Titular of the Teinds, by Commiſſions directed to ſeveral Sub-Commiſſioners in every particular Presbytery; and, according to his Belief, thoſe Commiſſions were directed to all the Presbyteries in the Nation; and that the Sub-Commiſſioners for the Presbyteries execute their reſpective Commiſſions; though he cannot ſay, that they either executed the Commiſſions, as to the whole Lands under their reſpective Commiſſions, without Exception, or that the Sub-Commiſſioners reported their Procedure to the High Commiſſion; and therefore he uſed the Expreſſion General, and not Univerſal, becauſe he believes the moſt Part of the Teinds in *Scotland* were valued; and that his Reaſon for ſuch Belief was, That he had ſeen Sub-Commiſſions directed to many Presbyteries in all Parts of the

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Nation; which makes him believe, that the like Commiſſions were directed to the other Presbyteries as the Plan laid down by the Commiſſioners of Surrenders, and the Commiſſion in 1633 was Univerſal: That he believes, that ſince the Year 1702, the Rents in many Parts of *Scotland* have been raiſed; and that many of the Heretors of *Scotland* had neglected or omitted to value their Tythes to this Day, becauſe they were in hopes of recovering the Evidences of former Valuations.

That the Commiſſion of Teinds ſince 1633, are confined to ſuch Teinds as then remain'd unvalued; and if there is Evidence of the Teinds being once valued, they are not liable, in caſe of Improvement, to a ſecond Valuation.

Mr. *Andrew Chalmer*, being examined, acquainted the Commitee, That he had receiv'd from the Clerk of the General Aſſembly, *George Wiſheart*, under his Hand, Copies of the Returns with relation to the Stipends of 832 Pariſhes in *Scotland*; and had from Mr. *Williamſon*, Clerk to the Commiſſion of Teinds, an atteſted Abſtract of the Stipends ſettled for 343 Pariſhes in *Scotland*, of which 46 were ſuch as were not mentioned in the Returns of the Miniſters; both which Numbers make 878: That he had ſeen the Scheme-Book, ſaid to be made by the Commiſſioners of the General Aſſembly from the ſame Materials, and finds the Stipends of juſt 75 of thoſe 878 Pariſhes ſtated as below 44*l.* 8 *s.* 10 *d.* $\frac{2}{3}$ which is the Legal. And he deliver'd in a Liſt of thoſe 75 Pariſhes, and their ſeveral Stipends, which is annexed in the Appendix, No. III.

And being ask'd, Whether there were any of thoſe 75 Stipends, which, although mention'd in the Scheme-Book to be below the Legal, on comparing them with the Returns, appear'd to be above the Legal; he ſaid, Before he ſaw the Committee's Scheme-Book, he knew what was the Number of Pariſhes, and the Stipends annexed to them; and that, on comparing them with the

Returns

Returns of the particular Miniſters, with Mr. *Williamſon*'s foreſaid Abſtract, and with the Records themſelves, of which it was ſuppoſed to be a true Abſtract, by that Compariſon he found there were 18 of the 75 mis-ſtated, as under the Legal, when, in fact, they were above it; and that he had drawn out from thoſe Vouchers what relates to the whole 75; for which he refers to the ſaid Paper he delivered in to your Committee, and annexed in the Appendix, No. III.

And being ask'd, Whether any of thoſe 75 Stipends had been ſettled by the Commiſſion of Teinds, or Lords of Seſſion, ſince the Year 1633; he ſaid, ſeveral of them had; for the Particulars of which he referred to the ſaid Paper; and that ſeveral of thoſe 75 Miniſters are in Poſſeſſion of full Tythes; for the Particulars of which he alſo referred to his ſaid Paper; and ſaid that there are only 15 of thoſe 75 Pariſhes, which, in his Opinion, don't fall under ſome of thoſe Three Diſtinctions: and that the Number of Heretors in 10 of thoſe 15 Pariſhes is 31 in all.

Being ask'd the Number of Pariſhes in *Scotland*; he ſaid, There are 944 Miniſters, as he has good Reaſon to believe; and that ſome Pariſhes have more Miniſters than One; particularly, that in the Seven Collegiate Churches in *Edinburgh*, there are Two Miniſters to a Church.

That he knows Inſtances from the Acts of the Aſſembly, printed by Authority, that within theſe Ten Years paſt the Aſſembly have ordered ſeveral Sums for carrying on and paying the Expence of Proceſſes for Augmentation: And he delivered in an Extract of thoſe Inſtances; which is as follows:

Excerpts

Excerpts from the Acts of the General Assembly of the Church of Scotland, *printed at* Edinburgh *by Authority, with regard to the Assistance given to Ministers for prosecuting Suits for Stipends, in the Ten Years last past.*

Anno 1741. The former Orders for carrying on Processes for Stipends to the Ministers of *Kilmalie* and *Ardnamurchan*, renewed.

The Orders of former Assemblies for defraying the Expences of Processes for Settlement of the Stipend of the Minister of *Aboyn* and *Glentanner*, renewed.

Anno 1742. A Process of Modification and Locality of the Stipend of the Minister of *Kilmalie* appointed to be carried on at the Church's Expence.

Anno 1743. The Procurator for the Church appointed to pay Ten Pounds Eleven Shillings and Six-pence *Sterling* to the Widow of Mr. *James Laury*, Minister at *Benvie*, disbursed by him in procuring an Augmentation to his Stipend.

Anno 1744. The Procurator and Agents for the Church appointed to carry on the needful Processes at the public Charge, for obtaining a legal Stipend to the Minister of the united Parishes of *Tarland* and *Migvie*.

The former Orders for carrying on a Process for Augmentation of a Stipend to the Minister of *Kildalton* in *Islay*, renewed.

Anno 1745. The former Orders for carrying on the necessary Processes for Stipend to the Minister of *Tarland* and *Migvie*, at the Church's Expence, renewed.

Anno 1746. Order for Payment 19 *l.* 11 *s.* 6 *d.* to Mr. *George Blair*, late Minister of *Abernyte*, on account of Money depursed in procuring an Augmentation of his Stipend.

Anno 1747. A Sum, not exceeding 15 *l. Sterling*, of the Church's Money, allowed for defraying the Expence

of

of a Proceſs depending for a Stipend to the Miniſter of *Trinity* Gask.

The Sum of 5 *l. Sterling* allowed as a Help to defray the Expence of a Proceſs for a Stipend to the Miniſter of *Preſton* and *Buncle*, beſides the Dues of extracting a Decreet.

The Procurator and Agent appointed to carry on a Proceſs for obtaining a competent Stipend for the Pariſh of *Delting*.

Anno 1748. A Sum, not exceeding 10 *l. Sterling*, of the Church's Money, allowed for defraying the Expence of a Proceſs depending for Stipend to the Miniſter of *Trinity* Gask.

A Sum, not exceeding 10 *l. Sterling*, for ſaid Uſe, to the Miniſter of *Buncle* and *Preſton*.

Anno 1750. The Expences of a Proceſs for a Stipend to the Miniſter of *Ardnamurchan*, ordered to be paid out of the Church's public Money.

"The Procurator and Agents appointed at the public Charge to carry on Two Proceſſes for the Miniſter of *Cuſhney*.

"The Procurator and Agents appointed at the public Charges to carry on the neceſſary Proceſs for obtaining a competent Stipend to the Miniſter of the united Pariſhes of *Walls*, *Sandneſs*, *Papaſtowr*, and *Fowla*."

Being croſs-examined, he was asked, Whether he was not employed in this Affair? He ſaid, he was; but did not come expreſsly to *London* for it.

Being asked, in regard to the Funds belonging to the General Aſſembly; he ſaid, They received a Sum of 125 *l.* quarterly, as far as he remembers, for defraying the Charge of Church-Affairs, but did not know how this 125 *l.* a Quarter was diſpoſed of.

Being asked, Whether he had not been employed in *Scotland* to apply to the proper Officers of the Aſſembly for a Sight of the Miniſters Returns, and Scheme Book?

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He ſaid, he was; and that they refuſed him a Copy, or any Inſpection of the Scheme-Book.

Being asked, Whether Mr. *Williamſon*'s Liſt of 343 Stipends was compoſed of Stipends ſettled ſince the Union? he ſaid, They were wholly ſo; the Liſt is atteſted by Mr. *Williamſon*; and that Paper is an Abſtract of all the Stipends ſettled on Miniſters ſince the Union; and the Number in that Period, as marked on the Abſtract, is 343: That he looked on the Records from the Union till ſome time in the Year 1738. the Records being no further brought up at this Time; and, to the beſt of his Remembrance, found Two or Three Stipends, ſettled by Records, which were omitted in that Abſtract; and Two of the 343 are twice ſtated.

Being asked, Whether he knew how many of the Stipends in *Scotland* were ſettled by Decreets, either of the old Commiſſions, or the Lords of Seſſion? he ſaid, He had already anſwered, as to all ſince the Union; and as to what were before that, there were very few Decreets upon Record; and that he could not tell the Number: And as to the others, he knew nothing but from the Miniſters own Returns: That he underſtood the Records before *Oliver Cromwell*'s Time were loſt, and the Records till 1702 were burnt by an accidental Fire.

Being asked, Whether, in their Returns, the Miniſters don't tell who have a Decreet, and who have not? he ſaid, He had examined them, but had not claſſed them who have Decreets, and who not; and he does not remember the Number: But that, in general, many of the Miniſters mentioned their having old Decreets, or Hornings upon them. Many ſay, they had not, nor ever heard of any Decreets for their Pariſh; and ſome, he thinks, are entirely ſilent on that Point: That he cannot remember how many have not Decreets, but that they are in his Book; and has obſerved, in his Searches, ſome Inſtances of Miniſters who have got

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Augmentations, notwithſtanding their Stipends were above the Eight Chalder: And he thinks it uſeful, ſuppoſing a Miniſter has Ten Chalder, and no Decreet, to have a Decreet of Modification, that he may have Summary Horning; and thinks, the Commiſſion of Teinds would not refuſe a Decreet to a Perſon that has none. And as to the Expence of ſummoning, and other Proceedings in Augmentation-Cauſes, and to prove, that the Lords of Seſſion, as Commiſſioners of Teinds, have, ſince the Union, by Acts of *Sederunt*, ſettled the Fees of their Officers; he produced a printed Book, intituled, "The "Form of Proceſs before the Lords of Council and Seſ-"ſion, obſerved in Advocations, ordinary Actions, and "Suſpenſions," *&c.* printed at *Edinburgh* 1718. written "for the Uſe of the Students in *Spotiſwood*'s College of "Law, by *John Spotiſwood*, of that Ilk, Advocate;" in which there are Two Acts of *Sederunt* of the Lords of Seſſion, as Commiſſioners of Teinds; the firſt dated 17th *November* 1708. the other 22d *December* 1708. relating to thoſe Fees: And ſaid, He had compared the Book with the authentick Record, with which it agrees; Copies of which Two Acts of *Sederunt* are annexed in the Appendix, No III. And he apprehends, the Lords of Seſſion, upon Complaint of any Fees being exorbitant, have a Power to reduce them, without they are ſettled by Act of Parliament; and that they ſurely do make Regulations, in relation to Fees.

And being asked, Whether the Court of Seſſion had ever, to his Knowledge, refuſed to leſſen or regulate the Fees complained of, at the Requeſt of the Clergy? he ſaid, He never heard the Clergy made any Application for that Purpoſe; nor does he think the Fees at this time are leſſened, but, on the contrary, greatly increaſed; becauſe the whole Fee, there ſet down for the Clerk, are taken as Fees for the principal Clerk; and other additional Fees are taken for a Deputy named by him, and another Officer, named an Extractor: But that he never

heard there was any Law to juſtify that Practice; and that nothing is neceſſary to ſtop it, but for Perſons to refuſe to pay it: And that he does not know whether the Clergy ſubmit to thoſe Exactions; but he has done it often for the Laity: And he thinks an Application to the Lords of Seſſion, for Redreſs in theſe Particulars, would be cheaper than an Application to Parliament; but thoſe Regulations only concern the Clerk and Mace-bearer.

That he knows of no Fees allowed by Law for Extractors in the Court of Tythes; and that he thinks the Fees are the ſame, whether the Decree is Four Sheets, or four Quires: But that the Regulation, with regard to Extracts, is, that a Clergyman pays two Thirds of what a Layman pays. And as to the Expence of ſummoning in an Augmentation Cauſe, where there is only One Heretor, the cuſtomary Fee for a Meſſenger, for every Summons (and he knows no Difference between Summons in Augmentation Cauſes and others), is One Shilling, tho' he lived at the Meſſenger's Door; and if the Meſſenger has any Diſtance to travel, he gets from 1 *s.* to 20 *d.* a Mile, as the Party can agree with him: And, in his Practice, he never found a Difficulty in getting a Meſſenger in the moſt diſtant Parts of *Scotland*, except the Iſland of *Orkney*, *Zetland*, and the other Iſlands; where there are great Difficulties in getting Meſſengers: And that it is cuſtomary, where there are many Heretors to ſerve, to agree with the Meſſenger by the Lump; in which Caſe, he will ſometimes give an Abatement even of the 1 *s.* a Mile.

And further ſaid, That he had got One Summons completely executed for 1 *s.*; and that he had, in another Caſe, paid 10 *d.*; but can't give any Reaſon for that extraordinary Difference, as it depends upon an Infinity of Circumſtances; and that he could not tell the Number of Perſons ſummoned in that Suit; but ſaid, they lived in different Places.

And

And being asked, If there are not a great Number of Landholders in ſome Pariſhes? he ſaid, There are in ſeveral Pariſhes, but not ſo many as he ſuppoſed before he ſaw the Miniſters own Evidence.

And being asked, What was the Method of proceedings in Augmentation Cauſes? he gave the following Account of it, and of the Expence of a Suit for ſettling a Stipend to a Miniſter in *Scotland*; which, he ſaid, he knew by the Records of the Court, to be the Routin of the Cauſe; which was read, and is as follows:

Memoir for giving a View of the Expence of a Suit for ſettling a Stipend to a Miniſter in Scotland.

The Miniſter gets from the Clerk of the Commiſſion Court, and under his Majeſty's Signet, a Summons, which is a Warrant for citing every Perſon intereſted, to appear, and anſwer to his Suit; and the eſtabliſhed Fees of ſuch Summons, for the Clerk and Signet, are 3 *s.* 4 *d.* Sterling.

This muſt be executed perſonally, or at the Places of their Reſidence, againſt all the Perſons intereſted, who are, and at the Croſs of *Edinburgh*, Pier and Shore of *Leith*, againſt ſuch of them as are not, within *Scotland*. The Expence of the laſt mentioned Citation is a Shilling; and that of the other Citations muſt depend on the Number of Perſons to be cited, and the Diſtances which the Executor has to travel for ſerving them. The moſt cuſtomary Fee is, a Shilling *per* Mile; but where the Diſtance is any Thing conſiderable, or a good deal to do, ſome Abatement is uſually ſtipulated, and given upon the Whole.

The Summons being ſerved, the Miniſter's Libel, ſetting furth the Foundation and Demand of his Suit, is framed, by any Practiſer about the Court: And as it is a Matter of mere Stile or Form, and generally does not exceed Two Sheets of Paper; a Crown, or Three Half Crowns, is the higheſt Fee that could be demanded for it; and rather higher than is uſually given.

To bring the Action into Judgement, this Summons muſt be called, and inrolled; for which the Clerk and Mace-bearer have eſtabliſhed Fees, amounting to Nine Shillings and Two-Pence Sterling.

For ordinary, every thing that is to be done by Counſel, on the Part of the Miniſter, in ſuch a Suit, is of the Nature of a Motion, in Courſe or Form; and for Things of that kind, Counſel in *Scotland* do not expect, and very rarely get, any Fees, either in the Commiſſion Court, or Court of Seſſion: Sometimes, indeed, when a Suit, which may require ſundry ſuch Motions, comes firſt in, there is a Fee of one Guinea given to a Counſel, with 5 *s.* 6 *d.* or 8 *s.* 6 *d.* to his Clerk or Clerks, and Servant.

One Point, neceſſary to be laid in the Miniſter's Libel, is, "That there is a ſufficient Fund of Tithes, in "his Pariſh, to afford him the Stipend he demands;" and for making out this, he ſets forth the Rental of each Heretor's Eſtate in Grain or Money. If all the Heretors are of Age, and capable of ſwearing to the Fact, and none of them conteſts it; they are all held as confeſſing, that their Tythable Rentals are as ſet forth; and the Court will thereupon proceed to modify a Stipend to the Miniſter; that is, to ſettle and aſcertain how much of the Tythe he ſhall have for his Stipend. But if any of the Heretors ſay, that the Rental is not fairly ſtated, or if there be amongſt them Minors, or other Perſons, who are not capable of an Oath, or who cannot be ſuppoſed to know the Facts; the Miniſter muſt then undertake a Proof of his Allegations, by Reference to the Oaths of the proper Parties, or by Witneſſes.

In order to the Miniſter's getting at this Proof, he muſt extract an Act: The Fee for this is Four Shillings One Penny and a Third Part of a Penny Sterling, *per* Sheet; and if no extraordinary Litigation has previouſly happened, this Act cannot well exceed Four or Five Sheets. If the Proof is to be wholly by Oaths of Parties, the Miniſter, upon calling this Act (the Fees of which

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re Four Shillings and Six-pence Sterling), directly gets at is Proof, either by the Parties Oaths, or by the Court's olding them as confeſſing the Rent alleged by him: And the Court may then proceed to modify his Sti-end.---But if the Proof depends wholly, or in Part, u-on Witneſſes, there is generally in the Act, a Commiſ-ion for examining them in the Neighbourhood of the ands (which will add a Sheet to the Length, or Four hillings and Two-pence to the Fees of the Act); and hen, beſides extracting it, the Miniſter muſt have a Di-igence, *i. e.* a Writ under the Signet, for citing the Wit-neſſes to appear; which may be got for ſeven Shillings, nd may ſtand Twelve Shillings, as it is comprehended n One Sheet, or extended to Two, (which laſt it can rarely exceed).---The Expence of ſerving this Writ upon he Witneſſes depends on their Number, and Diſtance from a Meſſenger (as has been already ſaid with reſpect to the ſerving of the original Summons); and that of tak-ing their Examinations depends on the Diſtance which they may have to travel for that Purpoſe, the Time it re-quires, the Entertainment on the Occaſion, and the pay-ing or not paying Fees to the Commiſſioner, and his Clerk; of all which, no general Computation can poſſi-bly be made.---When the Proofs, thus taken, are report-ed to the Court, the Miniſter, beſides the above-menti-oned 4 *s.* 6 *d.* for calling his Act, has 4 *s.* to pay of Fees, for each Witneſs ſworn.---And the Court may then pro-ceed to modify the Stipend.

If the neceſſary Witneſſes do not appear on the Firſt Writ, this will retard the Suit, but will not increaſe the Expence on the Miniſter's Part; becauſe, though he muſt take out a ſecond Writ, a *Capias*, againſt the De-faulters, at the Coſt of 7 *s.* or 12 *s.* this liberates him from all the Charges of the Execution of the Commiſſion, and of the Attendance of the Witneſſes: For, in that Caſe, they muſt either appear in Court, or take out a new

new Commiſſion (if the Court will indulge them one) and execute and report it, all at their own Coſts.

After Proofs, with reſpect to the Rental, are concluded in one or other of the Ways aforeſaid, there are certain Steps of Form (called Inrolling in the Roll of Cauſes to be prepared, Preparing and Inrolling in the Roll of concluded Cauſes) which muſt be gone through before the Court pronounces Decree, modifying the Stipend; and, theſe being over, ſuch Decree immediately follows. The Expence of theſe Steps of Form may be only 15 *s.* and cannot exceed 20 *s.* and the Fees for an Extract of the Decree are ſettled at 2 *l.* 3 *s.* 4 *d.* Sterling.

Here the Miniſter's Concern in the Suit is at an End: For tho' a Summons for an original Settlement, or Augmentation of Stipend, in any Pariſh that belongs to Two or more Heretors, uſually contains alſo a Concluſion or Demand, That the Stipend ſhould be localled by the Court, *i. e.* that the Court ſhould ſettle or aſcertain what Part of the Stipend each Heretor ſhall pay; and the ſettling of that frequently gives Occaſion to long and intricate Litigations among the Heretors; the Miniſter is intitled, by Force of the Decree modifying his Stipend, to levy the full Fifth Part of every Heretor's Eſtate, till the Stipend is made up; and to continue ſo to do, until the Heretors put into his Hands a Decree localling it amongſt them.

This is the State of the Routin of a Miniſter's Suit for Stipend in the general; and where no litigious Proceedings, or extraordinary Accidents happen while the Part of it which properly concerns him is in Dependance. The Death of a Defendant, during that Period, will occaſion an Expence of 7 *s.* for a Writ of Incident Diligence; and a Meſſenger's Fee for ſerving it on his Repreſentative, and ſome other Things of that Kind may occur. As to litigious Proceedings, where-ever there is a Neceſſity for a Counſel's arguing, or drawing Papers, on Behalf of the Miniſter, which will not only require Fees

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to him, but give riſe to other Fees and Expences, that muſt proceed either from the Miniſter's inſiſting upon ſomething material to the Iſſue, or concerning the Extent, or other Circumſtances of his Pariſh, which thoſe intereſted deny; or from his demanding ſomething as his Right which they contend not to be ſo. And with regard to all Expence occaſioned by ſuch Litigations, it is competent to either Party, pending the Suit, to inſiſt for Indemnification thereof againſt the other; and if the Court is of Opinion, that the Caſe deſerves it, they do award it by an Interim Order: When ſuch Indemnification is not asked, it is preſumed to be from a Senſe, in the Parties, that the Matter or Point conteſted was ſo doubtful, as to make both excuſable for conteſting it; and that the Court would refuſe it on that Ground, as is the ordinary and uſual Courſe of proceeding in Queſtions of that kind.

What is ſtated above, with regard to the Fees for Summons, calling and inrolling of it, Extracts of Act, or Act and Commiſſion, Diligences and Decree, calling the Act, Oaths of Witneſſes, and inrolling and preparing Cauſes, is agreeable to the Regulations eſtabliſhed by Two Acts of *Sederunt*, *Anno* 1708. ſtill in Force: And they are obſerved ſtrictly, to this Day, with reſpect to the Mace-bearer's Fees, and alſo as to the Clerk's Fees; with this Explanation, by cuſtomary Practice, That the Full of them are taken as Fees to the principal Clerk; and other and additional Fees are demanded and taken by certain other Officers of his creating, under the Names of Clerk-deput, and Extractors, for ſome of thoſe Services, for which he has eſtabliſhed Fees; and theſe run ſometimes, particularly on Extracts of Decreets, if long as high as, or higher than, the Fees eſtabliſhed for the Clerk by the Regulations of Court.—And then, as the Perſon who manages as Sollicitor for the Miniſter is intitled to a Gratification, for his Trouble—theſe Things occaſion, that, in fact, theſe Suits and Decrees, as well

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as all others, are made more expenſive to Parties concerned, than the Law has provided they ſhould be.

The ſaid Mr. *Chalmer* being asked, Whether, when any Heretor is a Minor, the Miniſter is not put to the Expence of proving the Rental of his Eſtate? he ſaid, He was, not only in that, but in ſeveral other Caſes.

Being asked, If he had ever heard any Complaint made of the Rates which he ſaid were uſually paid to the Meſſengers being exorbitant? he ſaid, That he had heard there lately was an Application to the Lords of Seſſion, and ſome Proceedings in relation to the Fees of Meſſengers; but never had Occaſion to ſee the Particulars, or to know what was done upon it. Being asked, If the Clergy ſhould be allowed the new Method of Summoning propoſed in the Reſolution of the Aſſembly 1750. it would be an Eaſe and Relief to them in the Expence of their Law-ſuits? he ſaid, In ſome Caſes it would, and in others it would not: And that it would not, in the Caſe where the Heretors were out of the Kingdom, or any of them Minors; but, in other Caſes, he believes, and makes no doubt, it would. And he ſaid, That the ſummoning from the Desk, in the Laity's Suits, would be an equal Eaſe to them; and that they ſometimes have Occaſion to ſue Forty or Fifty People at one Time, which is very far from being generally the Caſe of the Clergy, when a Miniſter ſues for an Augmentation of his Stipend. And being asked, Whether he thought a Proceſs of Modification, or Augmentation, to be an Action? he ſaid, He knew no Difference between the Words Proceſs and Action, in their Way of ſpeaking. And being asked, Whether, when an Augmentation was carrying on before the Commiſſioners of Teinds, before the Union, he eſteemed that a ſummary Proceeding before Commiſſioners, or a Civil Suit, or Action? he ſaid, He had been uſed to think even thoſe Proceedings Actions, tho' he knew, by the Records, that many ſuch Proceſſes came before that Commiſſion, in its earlieſt Times,

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without the Citation of any Parties to it, but upon Reports from their Sub-commiſſioners. And he ſaid, He knew no other Reaſon for calling a Proceeding before Parliamentary Commiſſioners, without any Writ or Citation, a Civil Action, but that he has been uſed to think ſo, and hear it talked of as ſuch. Being asked, Whether, in Proceſs of Augmentation or Modification, the Purſuer or Miniſter gets any Coſts of Suit? he ſaid, They did not, if there is nothing but the ordinary Proceedings in ſuch a Cauſe; but that he has obſerved, from Record, Inſtances wherein the Court has given Interim Coſts to the Miniſter, and when they have appointed the Heretors to extract his Decreet at their own Expence; and has not ſeen many Decreets, upon Record, of the Commiſſioners of Tythes, before the Union, where there was not a Purſuer under Citation of the Defendants; but, as far as he can recollect, the Form was by Summons and Citation, after 1637. And further added, That if the Court of Seſſion ſhould continue, upon Application, to increaſe the Stipend of Miniſters which are already above the *Minimum*; he had no Doubt, but the ſummoning from the Desk, propoſed by the Clergy, will prove a very great Grievance: And one of his Reaſons for thinking it would be ſo, was, that the Proceſſes of Augmentation would be more frequent, even where Miniſters had the Legal, in caſe the Method of ſummoning was cheaper; and that it would render the Certainty of Notice entirely precarious: And if an Heretor's Relief againſt a Decree depended upon the Objection of want of Notice, it makes the Purſuer himſelf the Evidence, as to the Fact, or low People dependent upon him, who are not under Bail, or Security, to anſwer the Conſequences, as Meſſengers are. And being asked the Queſtion? he ſaid, He could not recollect any other Grievances, that would attend that Practice. Being asked, Whether, in ſummoning, in Augmentation Cauſes, before the Commiſſioners of Teinds,

it is neceſſary to be ſerved by a Meſſenger, or by any Perſon the Purſuer pleaſes to employ; he ſaid, he had Reaſon to think that, ever ſince the Union, the Cuſtom has been to execute theſe Summonſes by a Meſſenger; but that he, the Witneſs, is no Judge whether it is neceſſary ſtill to be done ſo, or if the Court can alter the Form; but that he has ſeen, from the practical Books wrote on that Subject, the Summonſes before the Parliamentary Commiſſion were directed to, and might be executed by any Perſon employed by the Purſuer.

Being croſs-examined, he ſaid, That the Direction of Letters under the Signet, is to Meſſengers at Arms, or Sheriffs; and it is underſtood, that they muſt be executed by Meſſengers; and that he believes, the Judges would not ſuſtain an Execution from any other Perſon than a Meſſenger, as the Practice has been ſo for a long Time, without ſome new Law or Regulation were firſt made; but that he underſtands it to be in the Power of the Court to regulate the Forms of Summoning, except where they are committed by Statute.----And being asked, Whether he knows any Statute, that expreſsly limits Summonſes in Proceſſes before the Commiſſion of Teinds to be executed by a Meſſenger, he ſaid, He does not, at preſent, recollect whether there is any thing particular in the Statutes relative to that Point, but thinks there is not. And being further asked, Whether it will not give a Power to the Clergy to haraſs the Laity by calling them before the Court of Seſſion, whenever they think proper, he ſaid, He thought it would give them no more Power than they have already. And being further examined, ſaid, That he had examined the Records of all the Decreets of the Court of Seſſion, ſince the Union, to the Year 1738, relating to the Augmentation of Miniſters Stipends; and that he does not know any Inſtance, or find any one upon Record, wherein the Court of Seſſion have augmented any Living within that Period which had before obtained a Decreet of Modification.

Robert

Robert Craigie, Eſquire, being further examined, was ked, Whether, by the Laws of *Scotland*, made before e Union, and now in Force, very ſufficient and ample rovision is not made for the Maintenance of Miniſters, the Augmentation of Stipends, and the due Payment thereof? he ſaid, That, in his Opinion, there is, as he as particularly mentioned in a former Examination, to hich he refers; and added, That he cannot diſcover hat ever the Presbyterian Clergy made any Complaints o Parliament, on either of thoſe Heads, before the preent Application: That all the new Proviſions, made in avour of Miniſters Stipends, by the Parliament of *Scotland*, were made upon Application of the Epiſcopal Clergy; and he believes, That the Moderation of the Presbyterian Clergy in this Particular, have contributed not a little to eſtabliſh them in the Affections of the People, which, by the Claim of Right made by the States of *Scotland* at the Revolution, and the Acts of Parliament made in conſequence thereof, is declared to be one chief Ground of re-eſtabliſhing Presbytery in *Scotland*. And, being further examined, was asked, Whether, ſince the Union, the Heretors, in Augmentation-Suits, have not been frequently under Difficulties in proving their Defences: That the Teinds have been before valued, or the Stipends before modified, by reaſon that the Records of the Commiſſioners of Teinds, antecedent to the Reign of King *Charles* the Second, were loſt by Shipwreck; and thoſe, from that time to 1722. were conſumed by Fire: He anſwered, That they had, becauſe there was a General Valuation of the Teinds ſoon after 1633; and thoſe Records were carried to *London* ſome time after the Year 1650. and great Part of them were loſt by Shipwreck, in their Return to *Scotland* after the Reſtoration; and the burning of the Records of the Commiſſion in 1702 deſtroyed the Evidence of the other Valuations, that had paſſed down to that time; and that by the ſame Accidents the Decreets of Modification and Locality, in favour of the

the Miniſters, were loſt; and this occaſions a great Inequality among Heretors, where ſome of them have Extracts of their Decreets of Valuation led ſoon after 1633. at the then Value of the Lands; and which Extracts are, by Act of Parliament, made equal to the original Valuation in the Records; and the other Heretors are liable in Teinds, according to the preſent Value of their Lands: Being asked, Whether, in Suits that ſhall be brought for the future, for the ſame Purpoſes, they will not be liable to the ſame Difficulties, he ſaid, They would. Being further asked, Whether the Commiſſion of Teinds and the Alteration of *Minimum*, eſtabliſhed in 1633. was merely the Act of the Legiſlature, or any-ways, and how, the Effects of a Compromiſe; he ſaid, That by the Acts of Parliament, in 1617. and 1621. for Plantation of Kirks, a Parliamentary Right was given to all thoſe who held Teinds in their Grants from the Crown, or under any other lawful Title; but upon King *Charles* the Firſt's Acceſſion to the Throne, he was adviſed to publiſh a Proclamation, annulling thoſe Acts of Parliament, and reaſſuming the Teinds, as belonging to the Crown: This occaſioned great Jealouſies in *Scotland*; and the Crown thereupon iſſued a Commiſſion to ſeveral Noblemen and Gentlemen, which was called, *The Commiſſion of Surrenders and Teinds*: This Commiſſion made ſeveral Regulations with reſpect to the Teinds, and particularly with reſpect to the *Minimum* of Miniſters Stipends; and they procured Submiſſions to the King by ſeveral Titulars, having Right to the Tiends of other Heretors Lands, whereby they ſubmitted themſelves to the King, and to an Award to be pronounced by his Majeſty, touching the Teinds of other Mens Lands: That the King accordingly pronounced ſeveral Awards or Decreets Arbitral, touching the Matters ſubmitted to his Majeſty, and thoſe Ordinances for the Commiſſioners for Surrenders, and the Awards pronounced by his Majeſty, eſtabliſhed by ſeveral Acts of Parliament, in 1633. Being asked

the

the Queſtion, he ſaid, That, when he mentioned the Practice of not giving Coſts in the Suit of Miniſters, he meant only Suits for modifying Stipends, and not for the Payment of Arrears of Stipend. Being asked, What he meant by a general Valuation of Teinds; he ſaid, That a Plan was laid down for a general Valuation of all Teinds, by the Authority of the Commiſſion of Surrenders, and the Commiſſion in 1633, without any particular Application by the Heretors of the Lands, or the Titular of the Teinds, by Commiſſions directed to the ſeveral Sub-Commiſſioners, in every particular Presbytery; and, according to his Belief, theſe Commiſſions were directed to all the Presbyteries in the Nation; and that the Sub-Commiſſioners for the Presbyteries execute their reſpective Commiſſions, though he can't ſay, that they either executed the Commiſſions as to the whole Lands, under their reſpective Commiſſions, without Exception, or that the Sub-Commiſſioners reported their Procedure to the High Commiſſion; and therefore he uſed the Expreſſion General, and not Univerſal, becauſe he believes the moſt Part of the Teinds in *Scotland* were valued: And that his Reaſon for ſuch Belief was, That he had ſeen Sub-Commiſſions directed to many Presbyteries in all the Parts of the Nation; which made him believe, that the like Commiſſions were directed to the other Presbyteries, as the Plan laid down to the Commiſſioners of Surrenders, and the Commiſſion in 1633, was Univerſal.

Being asked the Queſtion, he ſaid, That he believes, That, ſince the Year 1702. the Rents in many Parts of *Scotland* have been raiſed; and that many of the Heretors have neglected or omitted to value their Teinds to this Day, becauſe they were in Hopes of recovering the Evidences of former Valuations.

He further ſaid, That the Commiſſion of Teinds, ſince 1633. is confined to ſuch Teinds as then remained unvalued; and if there is any Evidence of the Teinds being

being once valued, they are not liable, in caſe of Improvement, to a Second Valuation.

Mr. *Chalmer* further ſaid, That he had been informed by *George Buchan* Clerk of the Commiſſioners of Teinds, That Proceſſes are now inſtituted, and carrying on, before the Court of Seſſion, as Commiſſioners of Teinds, in relation to the Stipends of the Pariſh of *Eckford*, and of the united Pariſhes of *Croſs-Burneſs*, and *North Rondaldſay*, two of the Fifteen Pariſhes abovementioned to be under the Legal; the Stipend of the Firſt of which is 43 *l.* 6 *s.* 8 *d.* beſides ſome ſmall Tythes; and he does not know the Value of the Glebe; that the Stipend of the Second is 40 *l.* 5 *s.* 6 *d.* beſides the Glebe, which is 5*l.* 17 *s.* 2 *d.* but can't ſay, that he has a Houſe; and refers, for the other Particulars of the Queſtion, to the Accounts of the Miniſters themſelves from which he took his Paper, ſet forth in the Appendix, N°. III.

Then the Agent for the Second Petitioners delivered in to the Committee an Abſtract of Mr. *Chalmer*'s ſaid Paper or Liſt of 75 Stipends, ſtated by the Clergy's Scheme Book to be under 44 *l.* 8 *s.* 10. *d.*; whereby it appears, that the firſt 18 of thoſe 75 Stipends are above that Value; that the Stipends of 30 others of the ſaid 75 Stipends appear to have been modified and fixed by Decrees of the Commiſſioners of Teinds, and Lords of Seſſion: And that, in Ten others of the ſaid Pariſhes, it appears, the Miniſters have the full Tythes of their reſpective Pariſhes; and that it thereby appears, that 60 of the ſaid 75 Stipends cannot be affected by the preſent Queſtion; which Abſtract is annexed in the ſaid Appendix, N°. III. And in Proof of the Facts therein ſtated, the Entries in the Clergy's Scheme-Book, and the Miniſters Returns, relating to the ſaid 75 Pariſhes, were produced, and read. Being asked, Whether, on his Peruſal of the Scheme-Book, and the Committee's Reports to the General Aſſembly, it appeared, That the

Facts

Facts therein ſtated are warranted by the Miniſters Returns, and Mr. *Williamſon*'s Abſtract, from which they are ſaid to be prepared and drawn; he ſaid, He could not ſpeak to the Compariſon between the Miniſters Returns and the Reports, becauſe the Facts in the Report are not ſpecially ſtated; but he could ſpeak to the Compariſon between the Miniſters Returns and the Scheme-Book; and that the Paper he had delivered in, intituled, The Liſt of 75 Livings, which is annexed in the Appendix, as aforeſaid, contains 26 Inſtances of Differences between the Returns and the Scheme-Book, and he has a Paper which contains 69 Differences more: And he delivered in the ſaid Paper, which is annexed in the Appendix, N°. III. That, having peruſed the Committee's Report, Scheme-Book, and the Miniſters Returns, he does not think they contain a true State; and has given 95 Inſtances, in which it is wrong, in regard to the Article of Stipends contained in the aforeſaid Paper: That, in 79 of thoſe Inſtances, the Stipends are made leſs; and, in the other 16 of them, more, in the Scheme-Book, than is warranted by the Miniſters Returns, and Mr. *Williamſon*'s Abſtract: And, it being mentioned in the Committee's Report to the General Aſſembly, that from the ſaid Scheme-Book they had cauſed to be drawn out an Abſtract of the principal Facts, which was therewith produced to the General Aſſembly, it was inſiſted by the Second Petitioners, That the ſaid Report and Abſtract did not contain a true State of the Facts therein mentioned: And the Petitioners in the Firſt Petition were required to produce the ſaid Abſtract to your Committee.

David Dalrymple, Eſquire, the Petitioner, ſaid, That the Committee made out a Memorandum from the Scheme-Book, upon a looſe Paper, which was never produced to the General Aſſembly, but the Contents thereof ingroſſed in the Committee's Report, as it is contained in the Abſtract of the Records of the Aſſembly produced,

duced, and that is all the Petitioners know of it; and that he never heard of any Abſtract till the Agent for the ſecond Petition mentioned it to the Committee.

And to ſhew, that the ſaid Paper has been frequently demanded, and that Proteſts have been made upon the keeping of it back,

Mr. *Chalmer* ſaid, He made repeated Demands from Mr. *George Wiſhart*, Principal Clerk, and *Robert MacIntoſh*, Sub-Clerk of the General Aſſembly, of the Abſtract in queſtion, as a ſeparate and diſtinct Paper from the Report: That at firſt they refuſed to give it, without aſſigning any Reaſon, but that they had not Authority from their Committee ſo to do; and, at laſt, they ſaid, They could not give it, becauſe it was not ordered to be taken in, nor was taken into the Record, nor directed to be kept as a Paper of any Conſequence, nor had been in their Hands for a conſiderable time; and that the laſt Anſwer they gave him was upon the 13th of *December* laſt.

And he delivered in to the Committee Three Inſtruments of Proteſt, and alſo a Letter of Mr. *MacIntoſh*, dated 14th *September* 1750. in which Letter Mr. *MacIntoſh*, ſpeaking of the ſaid Abſtract, expreſſes himſelf thus:

" With reſpect to the Calculations made out from Mr. " *Williamſon*'s Abſtract, or from the Reports of Miniſters, " the ſame having been the Work of a private Hand, " and never was adopted by the General Aſſembly, I " am not authorized to give you any of them."

And Mr. *Chalmer* ſaid, He clearly underſtood from Mr. *Wiſhart*, That there certainly was ſuch a Paper.

And the Agent for the Petitioner, in the Second Petition, inſiſting, there was a Difference between the Amounts given by ſome of the Witneſſes for the Firſt Petition, and the Extracts from the Aſſembly's printed Minutes, of the Expence of carrying on a Suit for an Augmentation, your Committee ordered the Petitioners, in the Firſt Petition, to produce the Bills of Fees, or the

Accounts

Accounts of the Expence of the Suits for augmenting Miniſters Stipends, mentioned in Mr. *Chalmer*'s ſaid Extracts of the Aſſembly's Minutes, and all other Vouchers relating thereto, in their Cuſtody and Power: And in particular they were called on to produce to your Committee the Bill of Fees, *Anno* 1743. amounting to 10 *l.* 11 *s.* 6 *d.* paid to the Widow of *James Lowrie*, Miniſter at *Beurie*, diſburſed by him in procuring an Augmentation of Stipend; and the Bill, *Anno* 1746. amounting to 10 *l.* 11 *s.* 6 *d.* mentioned to be paid to *George Blair*, Miniſter of *Abernethie*, diſburſed in procuring an Augmentation of his Stipend: In Anſwer to which, the ſaid Firſt Petitioners ſaid, They had no ſuch Papers in their Cuſtody. Then Two Acts of the Parliament of *Scotland*, made in the Year 1587. N°. 72. and 83. were read; Copies whereof are ſet forth in the Appendix, N°. IV. By the Firſt of which the Meſſengers are directed to find Surety to be always ready to ſerve the Lieges, and that their Wages ſhould be One Mark by the Day: And by the Second of the ſaid Acts it is ordained, That Officers of Arms committing Falſhood or Oppreſſion, in the Execution of their Office, ſhould be puniſhed with Death. And another Act, N°. 208. *Anno* 1594. was alſo read; a Copy whereof is alſo ſet forth in the ſaid Appendix, N°. IV. whereby Officers at Arms are directed to find Sureties for their good Behaviour in the Execution of their Offices, in ſuch manner as in the ſaid Act is mentioned. Mr. *Chalmer* being asked, if the Miniſters in *Scotland* pay the Land-Tax for their Stipends; he ſaid, He did not think they did. Then an Act of the Parliament of *Scotland*, N°. 21. *Anno* 1663. a Copy whereof is annexed in the Appendix, N° IV.; whereby it is ordained, That every Miniſter ſhould have Fewel, Foggage, Feal, and Divots, as alſo Graſs for one Horſe, and two Kine, over and above the Glebe, or Twenty Pounds *Scots*, in lieu thereof; and alſo Two other Acts of the Parliament of *Scotland*, made in the Years 1665. and 1678.

whereby the Miniſters Stipends are diſcharged from paying of Land-Tax, were read.

The Agent for the Second Petitioners then proceeded to give an Anſwer to the Clergy's Second Head of Complaint; *viz.* The bad Payment of their Stipends: As to Mr. *Macvie*, the Miniſter of the Pariſh of *Mairnes*, mentioned by Mr. *Ruſſel*, it appears, by the Entries in the Clergy's Scheme-Book, That his Stipend is 65 *l.* 7 *s.* 2 *d.* and, by the Miniſters Returns, Page 733. That Mr. *Macvie* does not thereby complain of bad Payment of his Stipend. As to the Pariſh of *Dalgain*, mentioned by Mr. *Campbell*, the Account given by him, was inſiſted to be immaterial, it being only what Mr. *Steel*, one of the Petitioners told him.——And Mr. *Steel*, being preſent, admitted he was the Perſon mentioned by Mr. *Campbell*, in his Evidence relating to that Pariſh.

And as to the Pariſh of *Mauklin*, of which Mr. *Auld* is the Miniſter, mentioned by the ſaid Mr. *Campbell*, the Clergy's Scheme Book, and Miniſters Returns, were produced, and read; whereby it appears, that the Miniſter's Stipend is 72 *l.* 4 *s.* 5 *d.* for which he had a Decreet; and that, in his Return, he does not complain of bad Payment.

And the Second Petitioners Agent inſiſted, That, as the Inſtances of bad Payment, attempted to be laid, by the Firſt Petitioners, before the Committee, were only Three; and, as the Evidence of thoſe Three was only Hearſay, he ſhould not trouble the Committee with calling any Evidence to controvert thoſe Inſtances.

Then, in order to ſhew how favourable the Laws of *Scotland* are to the Clergy, in relation to the Payment of their Stipends, the following Acts of the Parliament of *Scotland* were read.

The Act, No. 6. *Anno* 1669. and No. 27. *Anno* 1695; whereby no Suſpenſions, or Stop of Execution, are allowed in Suits for Arrears of Stipends, without the Defendant paying the Money into Court: And the Act, No

21. *Anno*

Act. *Anno* 1663. relating to their poinding or diſtraining for Arrears of Stipends; Copies of which are annexed in the Appendix, No IV. and V.

Mr. *Chalmer* being asked, Whether, if the Parliament ſhould grant the Clergy of *Scotland* the Remedies which they deſire, it would not be a Diſadvantage to the Clergy themſelves, and, if ſo, in what Reſpect, and for what Reaſon; he ſaid, That he could not ſay any thing to the Firſt Part, about executing of Summonſes; but, as to the making their Stipends bear Annualrent in the Terms propoſed, he apprehended it muſt either be totally neglected, if enacted, or prove diſadvantageous to them; becauſe he thinks it would introduce an univerſal Practice of with-holding their Stipends much longer than they now are with-held, and deprive them of a very ſtrong Preference that the Law now gives them for their Stipends.

Robert Craigie, Eſq; being called in, was asked, Whether the Clergy of *Scotland* are on better or worſe Terms than the Subjects, for the Recovery of their Debts; he ſaid, That the Clergy have many Privileges in recovering their Stipends, namely, they have a Privilege, and a Preference, againſt all Intromitters with the Teinds, out of which their Stipends are payable, to all other Creditors; and they can claim their Stipend from every Intromitter with the Teinds, provided they claim within the Year. Secondly, They have a general Horning upon their Decreet of Locality, or upon a former Horning, againſt all Intromitters; and this Horning ſerves all the time of a Miniſter's Incumbency, though the Heretors liable in the Stipend ſhould happen to be changed, or the Tenants or Intromitters of the Stipends, which is a Privilege competent only to the Crown.—— Theſe are the chief Privileges competent to the Miniſters, beyond what is competent to other Creditors.——— But they have in common with other Creditors, that, if the Perſon liable in the Stipend, being charged upon the Horn-

Horning, does not pay within Ten Days, he may be denounced, and the Stipend bears Intereſt; he may alſo arreſt the Debitor's moveable Eſtate; he may poind or diſtrain his Moveables; and he may obtain a Caption, and, by virtue thereof, commit his Debitor to Priſon, till he pay the Debt; and the Debitor cannot ſtop Proceedings upon the Horning, but upon conſigning the Stipend in the Hands of the Clerk in Court, or upon producing a Diſcharge; this laſt is a Privilege competent to the Miniſter, that is not competent to other Subjects: And, if any Part of the Stipend is payable in Victual, the Debitor muſt conſign 100 Marks for each Chalder of Victual; and, if the Suſpenſion ſhall be found groundleſs, the Miniſter is intitled to his full Coſts at the ſame time: He has ſeldom known ſuch Suſpenſions attempted, becauſe, according to his Information and Belief, the Miniſters Stipends are regularly paid; and that, for the above-recited Reaſons, he thinks the Clergy are the beſt paid of any Perſons in *Scotland*, becauſe they are underſtood to be alimentary; and every Intromitter with the Teinds is liable and ſubject to Diſtreſs, as above ſtated, in caſe of not regular Payment; and that the Laws of *Scotland* give greater Coſts to a Miniſter than a Layman, as the former, in recovering their Stipend, recover full Coſts, without Abatement, which is rarely given to another Creditor.

Being croſs examined, he was asked, Whether a Horning muſt not be upon a Decreet of Locality? he ſaid, It muſt be upon a Decreet, or a former Horning: And, in caſe there be no Decreet of Locality or Horning, they can obtain a Decreet upon Uſe of Payment, in an inferior Court; and, upon this Decreet, they may obtain a Horning during their Incumbency, and the Heretor's Poſſeſſion. And that, upon a Poinding, the Heretor poinds for One Shilling in the Pound more than the Debt, which is called Sheriff's Fees, and which goes to the Miniſter; and that is commonly more than ſufficient to pay the Officer.

Being

Being asked, Whether if a Miniſter was to poind for Crown, how, in that Caſe, the Officer would be paid? he ſaid, He muſt be paid by the Miniſter in the firſt Inſtance; and the Miniſter would be intitled to an Action for the Expence laid out more than the Sheriff's Fee, and which he would recover, with the Expence of that Action; and that this is the common Caſe of all Poindings, where the Sheriff's Fee don't anſwer the Expence; but he never knew a Miniſter poind for a Crown, nor ever knew any Poinding at all in any Clergyman's Caſe: That Poinding is not a very nice Proceſs; but that he has known Irregularities committed in it on Proceſſes; but that was not occaſioned by the Difficulty of the Proceſs, which is commonly executed by a Baron's Officer, or a Juſtice of Peace's Officer, without any Miſtake.

Then the Agent for the firſt-mentioned Petitioners called

Mr. *David Bruce*, who, being examined, ſaid, That he knows *Long-Iſland*, which is a Place conſiſting of ſeveral Iſlands, and about 100 Miles long; and that he believes there are no Meſſengers in *Long-Iſland*, and does not know of any nearer than *Inverneſs*: That the Witneſs has a Leaſe of Part of *Long-Iſland*; and does not know there is a Meſſenger, or Juſtice of Peace, within that 100 Miles.

Being asked the Queſtion, he ſaid, That he has heard there is a Meſſenger in the *Iſle of Sky*, but that is no Part of the *Long-Iſland*.

That the Inhabitants complained, that they had no Magiſtrate among them; and the Clergy complained, that their Stipends were in Arrear, and that the Reaſon was, becauſe they had no Magiſtrate to complain to, when their Stipends were not regularly paid.

That if a Meſſenger is employed by a Miniſter in *Long-Iſland*, he is obliged to go there in an open Boat, they having no other Sort of Boats there, unleſs he chuſes to

hire

hire a Boat from another Part, which will be attended with Expence; and that the Iſles are, ſome of them Four, ſome Eight, and ſome Ten Leagues diſtant from the main Land.

Being croſs-examined, he was asked, If he knew any other Place that wanted Meſſengers, beſides *Long-Iſland*; he ſaid, He never made it his Buſineſs to inquire:

That he thinks *Long-Iſland* is in the Presbytery of *Southweiſt*; and that there are only Five Heretors there, whoſe Names he repeated to the Committee, but that only Two of theſe Heretots reſide in *Long-Iſland*; and that he believes thoſe who don't reſide there may be ſummoned upon main Land:

That he can't call to mind every particular Miniſter in that Country, who complained to him, that his Stipend was ill paid; but there were ſeveral who did; and named Mr. *M'Auland*, Miniſter of *Southweiſt*, and Mr. *Mountford*, Miniſter at *Fort-William*, both of whom did.

Being asked, Whether theſe two Pariſhes were not Part of the Eſtates forfeited in the late Rebellion; and whether that, or their being under a Suſpicion of Forfeiture, may not be the Reaſon of Non-payment? he ſaid, That at *Fort-William* was Part of a forfeited Eſtate; but that at *Southweiſt* is undetermined, on Account of a Miſnomer; but he can't ſay whether that has been the Reaſon of Non-payment, for the Eſtate at *Fort-William* has been under Factory ſince 1745. and that the Witneſs is Tackſman for ſome of the forfeited Eſtates, but not Factor for any: and, where he is Tackſman, the Leaſes are in his own Name, for the Behoof of the Government: But it is *Clanronald*'s Eſtate; the Point is not yet determined, whether it is forfeited, or not.

Being asked, If he knew of any Complaints of that kind before the Rebellion; he ſaid, He was never there before the Rebellion; that the Complaints were made to him in 1747, and he don't remember, that the Miniſters ſaid they were ill paid before the Rebellion.

Then

Then the Agent for the ſecond mentioned Petition proceeded to ſhew, that none of the eight Pariſhes in *Long-Iſland* come within the Complaint in the firſt Petition.

That four of the eight, *viz. Stranaway, Lokes, Wig*, and *Barras*, had Decreets of Locality in the Year 1722; that the Miniſter of the Pariſh of *Harris*, another of the ſaid eight Pariſhes, has a Stipend of fifty Pounds a Year, and that he does not complain of bad Payment; that the Miniſter of *Barrow* obtained a Decreet in 1734, that the Miniſter of *Northweiſt* hath Eight Chalder of Victual; and that the Miniſter of *Southweiſt* likewiſe obtained a Decreet in 1734. and the full Tiends; and, in his Return, he does not complain, that he is ill paid, as appears from the ſaid Entries in the Scheme-Book, and Miniſters Returns read to the Committee; and it alſo appears by the Return, Page 2449. that Mr. *Mountford*, Miniſter of *Killmally*, near *Fort-William*, does not complain of being ill paid.

Mr. *Chalmer*, being further examined, ſaid, That it is in the Power of the Lord *Lyon*, King at Arms, to appoint as many Meſſengers in *Scotland* as he ſhould think fit; and that the ſaid Lord *Lyon* told him, That there were Twelve Meſſengers in the Shire of *Air*, and that he was willing to appoint as many more as they ſhould deſire: He further added, That he never knew or heard of any Pariſh in *Scotland* that wanted a ſufficient Miniſter, on Account of the Lowneſs of the Stipend, and other Proviſions.

The Agent for the Second Petitioners then produced to your Committee the Reſolutions of Twenty-ſeven of the Counties in *Scotland*.

And Mr. *Chalmer*, being ſhewn the ſaid Papers, ſaid, They were the Reſolutions of the ſeveral Counties of *Scotland* therein mentioned, declaring their Purpoſe of oppoſing the Augmentation Scheme reſolved upon by the General Aſſembly 1750, and lodging the Conduct of

of ſuch Oppoſition with the Petitioners in the Second Petition; Copies of Two of which Papers are annexed in the Appendix, N° VI.

And, being ſhewn One of the ſaid Two Papers, intituled, *Extract* Sederunt *of the Heretors of the Shire of* Edinburgh, 12*th* January 1750, he was asked, Whether the Expreſſion, "That the Meeting were of Opinion to oppoſe "the Scheme of the Augmentation of Miniſters Stipends "in *Scotland*, as it has been formed and carried on by "ſeveral of the Clergy, and has been publiſhed and "explained by the Proceedings of the Church Judica-"tories, and their Committees, who have it under Con-"ſideration," was confined to that Part of it which related to the Increaſe of the *Minimum*? or whether it extended to any other? or what Parts of the ſaid Scheme?

He ſaid, He was preſent at the time when this Reſolution paſſed; that there was a Debate upon it; and that thoſe Words were put in to ſignify, that the Reſolution did extend to all the Particulars in the Scheme reſolved upon by the General Aſſembly; and that he does not remember any Perſon but one to have ſpoken againſt it's being ſo extended.

Robert Craigie, Eſq; being further Examined, ſaid, That, by the Law of *Scotland*, no Perſon can be preſented to a Benefice, unleſs he be previouſly licenſed by the Preſbytery, and declared qualified for the Miniſtry; and that he knows of no legal Pretence for refuſing to ſettle a Preſentee ſo qualified.

Being asked, What was the uſual Pretence of ſuch Refuſal? he ſaid, It was difficult to anſwer; but, as far as occurs to him, the Church of *Scotland* conſider Patronage as a Grievance, and the ſettling of Churches by Patronages as in ſome meaſure encroaching on their Conſtitution; and, though they are not all of the ſame Opinion in this Particular, yet the Majority of ſeveral Presbyteries are,

and

and are unwilling to ſettle any Miniſter upon a Preſentation.

And, for that Reaſon, if the Heretors, and the Elders, or even the People, oppoſed the Settlement of the Preſentee, the Presbyteries are very ready to reject him, and to ſettle one that is choſen by the People, as this is agreeable to their own Principles; and that he never knew any Miniſter ſettled by the Presbyteries, but he enjoyed the Stipend, though he was ſettled contrary to the Preſentation.

That he knew one Inſtance where this was brought in Queſtion before the Court of Seſſion; and in that Caſe, though the Court of Seſſion found the Patron had a Right to retain the Stipend until his Preſentee was ſettled in the Abſtract, yet in the iſſue of the Cauſe the Court found the Patron had no Right in that Caſe, and that the Miniſter ſettled contrary to the Preſentation had Right to the Stipend, which he enjoyed till his Death: That there is another Caſe at preſent depending in the Court of Seſſion; but in what Manner it will be determin'd, he can't ſay.

Being asked, Whether, if the Court of Seſſion ſhall continue, upon Application, to increaſe the Stipends of the Clergy when they are before above the Legal, the ſummoning of the Heretors from the Desk may not, if granted, prove a Grievance to the Heretors? he ſaid, He could not ſpeak to Futurities with Certainty: He believes the Heretors would think it a Grievance, if they continued to augment above the Legal; but could not ſay, whether ſummoning them from the Desk would add to the Grievance.

Being asked, Whether, in ſome Presbyteries, the accepting the Preſentation, and being the Patron's Preſentee, has not been a ſufficient Reaſon for not admitting the Preſentee? he ſaid, That all he could ſay to that was, he had known a Preſentee rejected by a Presbytery, where he could diſcover no other Reaſon but his

accepting the Preſentation; but that in the Aſſembly he had not known it done: That he knows the Patron, in thoſe Caſes, has appealed to the Synod, and from thence to the General Aſſembly; but what the Expence of ſuch Applications were, he cannot ſay; And that he has known Applications made to the Aſſembly in favour of the Preſentee, but without Succeſs; and that in Caſes where Appeals have come to the Aſſembly, and they have ordered the Preſentee to be ſettled, the Preſbytery have diſobeyed ſuch Order.

Mr. *Chalmer* being asked, Whether the Clergy of *Scotland* ſettle Miniſters according to the Right of Patronage? he ſaid, For ought he ever heard, they never did, as he underſtands it; and that the Reaſon of ill Humour between the Heretors and their Miniſters ſettled, and the Occaſion of their Backwardneſs to pay the Stipend, was, as he had always heard, the Manner of Miniſters coming into Pariſhes: But whether thoſe Diſputes did ariſe from the Clergy not obſerving the Law with regard to Patronages, or from the Diſputes amongſt different Parties of the Heretors on thoſe Occaſions, he could not ſay.

And being asked, If the Clergy did not often ſettle the Preſentee? he owned, They did; but ſaid, His Reaſon for thinking thoſe Settlements were not according to the Right of Patronage, as he apprehends the Right of a Patron to be, That the Preſentee ought to be ſettled, if there is no Objection to his Life and Doctrine, ſuſtained by the Presbytery, without their asking the Concurrence of Heretors, Elders or Heads of Families, which is generally called the Moderation of a Call; and that he did not know any Inſtance wherein they proceeded after that Manner; nor did know any Inſtance where they ſettled the Preſentee, when the Majority of Heretors and Elders were againſt him, and for another; but ſaid, he had Reaſon to believe they had frequently done ſo.

And being asked, Whether the aſcertaining the Right of Patronages, and obliging the Clergy to ſettle accordingly, would not prevent Diſputes between the Miniſters and Heretors of the Pariſh, and procure more eaſy Payments of the Stipends? he ſaid, He could not judge of that Point.

And he ſays, That the Proſecution of a Suit for a Settlement of a Miniſter, when conteſted, through all the Forms of Eccleſiaſtical Courts, is very expenſive; and that he was concerned in One, that coſt the Patron 50 *l.* without paying any thing to One of his Two Counſel, or his Agent.

And being asked, if he could recollect the Time when the Practice began for moderating the Call? he ſaid, He apprehended, that the legal Method of proceeding was from the Year 1690. when the Right of Preſentation was taken from Patrons till 1712, when it was reſtored; and reckons it was continued on even after that; but knows nothing for certain as to the Time of the Commencement of that Practice.

Then a Minute of the Reſolution of the General Aſſembly of the Church of *Scotland*, dated the 13th of *May* 1751, was read; which is annexed in the Appendix N°. VII: And a Letter from Mr. *James Mackie*, Moderator of the ſaid Aſſembly, dated the 14th *May* 1751, was read; and is annexed in the Appendix, N°. VII.

APPEN-

APPENDIX.

Nº I.

Act 1617. Nº III. Vol. I. p. 879.

3. *Anent the Plantation of Kirks.*

OUR Sovereign Lord, conſidering that there be divers Kirks within this Kingdom not planted with Miniſters, wherethrough Ignorance and Atheiſme abounds amongſt the People; and that many of thoſe that are planted have no ſufficient Proviſion or Maintenance appointed to them, whereby the Miniſtry are keeped in Poverty and Contempt, and cannot fruitfully travel in their Charges. Conſidering alſo, that nothing is more properly belonging to his princely care, than to ſee to the good Eſtate of the Kirks within his Dominions, out of the Zeal which his Majeſty bears to the promoting of the Kingdome of Chriſt.

And for ane perfit Remedie of thoſe Evils, with Advice and Conſent of the Eſtates of Parliament, hes granted full Power and Commiſſion to the Lord Chancellor for the Time, and to the Reverend Fathers in God *John* Arch-biſhop of Sanct-*Andrewes*, *Iames* Arch-biſhop of *Glaſgow*, *Alexander* Biſhop of *Dunkeld*, *Alexander* Biſhop of *Aberdeen*, *Alexander* Biſhop of *Murray*, *Patrick* Biſhop of *Roſs*, *Adam* Biſhop of *Dumblane*, and *William* Biſhop of *Galloway*: Eight Perſons nominate for the Clergy and Prelates, and in caſe of the Deceaſe of any of them, to *Andro* Biſhop of *Brechin*, *George* Biſhop of *Orknay*, *Andro* Biſhop of *Argyle*, and *John* Biſhop of *Caithnes*: Which Foure Perſons, his Majeſty and Eſtates hes nominate to ſupply and become in the Place of any of the other Eight aforeſaid, if any ſhall happen to deceaſe before this Commiſſion be finiſhed. To wit, the Firſt of the Four in the Place of the Firſt of the Eight deceaſing, and ſo in Order ſucceſſively as they are named. And to *Iohn* Earle of *Marr* Lord Theſaurer, *James* Marques of *Hamilton*, *Iames* Earle

of *Abercorne*, *William* Earl of *Tullibardin*, *Robert* Earle of *Roxburgh*, *Iohn* Viſcount of *Lawderdale*, *Thomas* Lord of *Binning*, and *David* Lord of *Carnegie*, Eight Perſons nominate for the Nobility. And in caſe of any of their Deceaſes, to *Alexander* Lord *Elphinſtoun*, nominate to become in the Place of the Firſt deceaſing, *Alexander* Earle of *Eglington* in the Second, *Iohn* Earle of *Perth* in the Third, and *Iohn* Lord of *Balmirrenock* in the Fourth. And to the Commiſſioners under-written nominate for the Barons: to wit, *William Douglas* of *Drumlangrig*, Sir *Walter Dundas* of that Ilk, Sir *James Haliburnton* of *Pitcur*, Sir *Iohn Hamilton* of *Lettrick*, Sir *Iohn Vans* of *Barnbarroch*, Sir *Andro Murey* of *Balvaird*, Sir *Alexander Gordon* of *Cluny*, and to Sir *George Auchinlek* of *Bulmanno*. And in caſe of any of their Deceaſes, to *Thomas Urquhard* Sheriff of *Cromarty*, Sir *Alexander Strachan* of *Thorntoun*, *Ioſias* Steward of *Boniton*, and Sir *Robert* Steward of *Schillinglaw*, Perſons nominate to become in Order as they are named in Places of any of the Eight deceaſing. And to *Iames Arnot* Burgeſſe of *Edinburgh*, Maſter *Alexander Wedderburne* Clerk of *Dondie*, Sir *Thomas Menzies* Proveſt of *Aberdeine*, *Iohn Sherar* Burgeſſe of *Sterling*, *Andro Milne* Burgeſſe of *Linlithgow*, *Iohn Osburne* Burgeſſe of *Air*, *Iohn Matheſon* Clerk of *Carel*, and Sir *George Bruce* of *Carnock* Knight, Burgeſſe of *Culros*, Eight Perſons nominate for the Burrowes. And in caſe of any of their Deceaſes, to *Alexander Clerk* Merchant Burgeſſe of *Edinburgh*, Maſter *William Ferguſon* Burgeſſe of *Dundie*, *George Nickolſon* Burgeſſe of *Aberdein*, and *Iohn Williamſon* Clerk of *Sterling*: Perſons nominate to ſupply in Order any of the other Eight Commiſſioners foreſaids deceaſing. Which foreſaids Commiſſioners, or any Five of ilk Eſtate nominate, as ſaid is, conſenting and agreeing in ane Voice, ſhall have Power to convein, conſult, and to determine upon the Matters, and in manner underwritten. Providing alwayes, that there is and ſhall be neceſſarily requiſite to the Validitie of any Act, Concluſion, Ordinance, and Determination of the ſaids Commiſſioners, the conjunct Aſſent of Five of every ane of the ſaids Foure Eſtates, all agreeing together in ane Voice, without the which Conſent of the ſaids Five of ilk Eſtate ſo agreeing, the reſt of the ſaids Commiſſioners ſhall have no Power to make any valide or effectual Concluſion by vertue of this preſent Commiſſion; but whatſoever ſhall be otherways done, is declared to be na Availe, Force nor Effect. That is to ſay,

Our Soveraigne Lord and Eſtates of Parliament by the Tenour hereof, gives, grants, and commits full Power and Authoritie to the

the ſaid Commiſſioners to meet and convene in the Town of *Edinburgh*, at ſik time and times as they ſhall appoint and finde convenient, and there to call and ſummond before them, all Patrons, Tackſmen of Teinds great and ſmall, and all others having Right by whatſomever Title to the Teinds within this Kingdome, as they ſhall think neceſſar and expedient, to exhibite and produce before them their Rights and Titles, whereby they claime the ſaids Teinds, to be ſeene and conſidered by the ſaids Commiſſioners, with Power to them out of the ſaids Teinds of every Parochin, to appoint and aſſigne at their Diſcretions *ane perpetual local Stipend* to the Miniſters preſent and to come at all Kirks that ſhall be found by them *either as yet not provided at all, with* Miniſters and Stipends, or where the Proviſion is leſſe nor *Five hundreth Marks of yearlie Rent in Money, or Five Chalders Victual* (by Manſe and Gleibe) or ſik Proportion particularly of Silver and Victual, as will effeir and extend to *Five hundreth Marks* or *Five Chalders of Victual* yearly, and which is the leaſt and meaneſt Stipend and Proviſion determinate, appointed, and declared by his Majeſty and Eſtates, to be given and aſſigned to any Miniſter for his local Stipend in time coming, *where the Fruits of the Benefice will extend to that Quantitie, in manner under-written*, and that notwithſtanding of any Right or Title pretended by the ſaid Tackſmen, or others in whoſe Favours Teinds have been erected. With ſpecial Power alſo to the ſaids Commiſſioners, to *unite* ſik Kirks, ane or moe as may conveniently be unite, *Where the Fruits of any one alone will not ſuffice to entertain ane Miniſter.* In the which Caſe of Union of ſik Kirks, if it fall out that Neceſſitie offer to unite Kirks belonging to the Preſentation of divers Patrons, the Preſentation of the Miniſters ſhall be appointed by the ſaid Commiſſioners to pertain to the Patrons (*alternis vicibus*) to the which Commiſſioners his Majeſtie and the Eſtates does recommend and refer to conſider and appoint farther ſik ſolide Order as may be beſt taken, and ſtand with the leaſt Prejudice of any of the Patrons, and as they ſhall be found to have more or leſſe Intreſt in the Kirks to be ſo united. It is always provided, That whereas there are divers Kirks whereof the Fruits of any one will not extend to the Quantity of *Five Chalders Victual*, nor *Five hundreth Marks* of Silver in yearly Commoditie, and that the Rents and whole Patrimonie thereof are noways anſwerable to that Proportion, and ſo is not ſufficient alone for the full Maintenance of ane Miniſter, and yet nevertheleſſe for Diſtance of Place, or other lawful Cauſes may be found incommodious to be united, whereby Neceſſity will evince that every Kirk in that Eſtate, ſhould be planted with their

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own particular Miniſter to ſerve thereat, *whoſe Proviſion behooves neceſſarily to conſiſt of the Fruits of the Benefice itſelf, how mean ſoever the ſame be.*

Therefore it is declared, that it ſhall be ſufficient to the ſaids Commiſſioners in that Caſe to aſſign and appoint to the Miniſter to be planted at any ſik Kirks *the whole Fruits perteining to the Patrimony thereof*, by and attour his Manſe and Gleibe. Which Fruits are to be enjoyed by him and his Succeſſours thereafter, as their perpetual local Stipend and Proviſion. And to the end the ſaid Commiſſion may take the better Effect, and for an ſolide Order anent the Proviſion of the ſaid Kirks, with their *certain definite* Stipend. And that it may be clearly known what ſhall be the Proportion and Quantitie of any Stipend, which ſhall be hereafter appointed to every Miniſter, at any Kirk, *either not provided at all, or not ſufficiently provided*, as ſaid is;

Our Soveraigne Lord and Eſtates declares, That the *leaſt* and meaneſt Stipend, which they have appointed to be hereafter provided by the ſaids Commiſſioners to any Miniſter, ſhall not be under and within the Quantitie of *Five Chalders Victual*, or *Five hundreth Marks* of Money, or proportionally Part of Victual, and Part thereof in Money, according as the Fruits and Rents of the Kirk may yeeld and afford, and as the ſaids Commiſſioners ſhall think expedient, effeirand to the ſaid *Five Chalders Victual*, or *Five hundreth Marks* Money, by and attour their Manſe and Gleibe, where the whole Fruits of the Kirk will extend to the Quantitie foreſaid, and that the *greateſt* and moſt Stipend which the ſaid Commiſſioners ſhall have Power to aſſign for Stipend to any Miniſter at any of the ſaids Kirks, aither not planted or planted, and provided with Stipends within and under the ſaid *Five Chalders Victual*, or *Five hundreth Marks* of Money, as ſaid is, ſhall not exceed the Quantitie of *Ten Chalders Victual*, or *ane Thouſand Marks* of Money, and proportionally Part of Money, and Part of Victual, at the Conſideration of the ſaids Commiſſioners, as they ſhall finde by Examination of the Rents of the Kirk moſt conveniently may be payed, by and attour their Manſe and Gleibe. Swa the *greateſt* ſhall be *ane thouſand Marks*, or *Ten Chalders Victual* with Manſe and Gleibe, and the *leaſt Five hundreth Marks*, or *Five Chalders* of Victual, with Manſe and Gleibe, *except where the whole Fruits of the Kirks will not extend to that Quantitie*, as ſaid is. And finds and declares, that all Kirks *which are planted with Miniſters*, whoſe Stipends *extends* to *Five Chalders Victual*, or *Five hundreth Marks* of Silver, or Part of both, effeirand to the whole, by their Manſe and Gleibe (the ſame being made ſure to them) are *expreſsly excepted* out of this Commiſſi-

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on, and no wayes comes under the Compaſſe thereof, neither ſhall the ſaids Commiſſioners have any Power by vertue hereof to meddle with any Kirks or Stipends which are in that Caſe, ſeeing the ſaid Commiſſion is not extended to the ſame. It is alſo provided, that where any Kirks are already ſufficiently provided, albeit their Proviſion *does exceed* the foreſaid Quantity of *Ten Chalders Victual*, or *ane thouſand Marks* of Money, and als *where the Fruits of any Benefice are in the Poſſeſſion of the Miniſter*, that the ſame ſhall be continued in the Eſtate wherein it is at the preſent, and not to be meddled with by vertue of the ſaid Commiſſion. And becauſe Reaſon and Equity craves, that Recompence ſhould be made unto the Tackſmen, and other Perſons whatſomever, who ſhall be by the Sentence of the ſaids Commiſſioners hurt and prejudged of their preſent Profit, which they may lawfully bruik by vertue of their Titles and Rights, eſtabliſhed in their Perſons, and upon whom, by vertue of the ſaid Sentence, any Burden of the Suſtentation and Proviſion of the ſaid Kirks and Miniſters is to be impoſed;

Therefore our ſaid Soveraigne Lord and Eſtates of Parliament gives full Power and Commiſſion to the ſaid Commiſſioners, ſo to proceed in the determining of the ſaids Recompences, That in caſe the Lord, or any other having Right to erected Prelacies, who ſhall be cited before them, refuſe to take the Burden of Plantation of any Kirks belonging to the ſaids erected Prelacies, which are not planted, or to help ſik other Kirks of the ſame, as are not well and ſufficiently provided, according to the tenour of the foreſaid Commiſſion, and that upon their Refuſal (the ſaid Refuſal being firſt found reaſonable by the ſaids Commiſſioners) the Burden of the ſaid Plantation, or farther Proviſion, ſhall be laid and impoſed by the ſaids Commiſſioners, in Whole or in Part, either upon the principal Takſmen of any of the Fruits of the ſaids Kirks. Or in caſe if the Takſmen refuſe, the Burden be impoſed upon the Subtakſmen thereof, the ſaids Commiſſioners ſhall have Power to decerne, appoint, and ordeine ſik particular Recompence to be given to the ſaids Takſmen, or Sub-takſmen, by renewing of their Tacks, or Sub-tacks, after the Expiring thereof, upon ſik Conditions as the ſaids Commiſſioners ſhall find reaſonable, reſpect being had to the Quality and Proportion of the Burden to be impoſed upon them within the Time of their Tacks and Rights, farther than they are aſtricted by their ſaids Rights, or by appointing ſik other reaſonable Satisfaction as they ſhall finde the ſaid Burden and Diſtreſſe undergone by any of them, ſhall deſerve and require.

Likeas the ſaids Commiſſioners ſhall have ſiklyke Power to determine, decerne and appoint ſik particular Satisfaction and Recompence

pence to be given either to laick Patrons, or to the Takſmen, of the Fruits of the Kirks belonging to the like Patronages and Sub-takſmen thereof, as they ſhall think may be anſwerable to the Burdens to be impoſed upon either of them for the cauſe above-written proportionally. In the preſcryving of the which Recompence, the ſaids Commiſſioners ſhall have ſpecial Reſpect, what Conſideration they finde reaſonable to be given to the ſaids Patrons for their Conſents to the Tacks, if any ſhall be appoynted and decerned to be ſet and given to the ſaids Tackſmen for Recompence foreſaid. And if any beneficed Perſon, upon juſt and reaſonable Cauſes, refuſes to provyde any Kirk belonging to their Benefice, according to the Order hereby preſcribed, whereby the Burden of Plantation, or farther Proviſion of the Kirk, muſt neceſſarily lye upon the Takſmen, or Sub-tackſmen, of the Fruits thereof; the ſaids Commiſſioners in that Caſe alſo ſhall decerne ſik Recompence to be given to the ſaids Takſmen and Sub-takſmen for their Loſſe and Prejudice ſuſtained, as the ſaids Commiſſioners ſhall find the ſame ſhall merit, by renewing of Tacks to them upon ſik Conditions as may requite their Loſſe, or by finding out ſome other reaſonable Meane which may repair the ſame. And our ſaid Soveraigne Lord, with Advice and Conſent of the ſaids Eſtates, declares, ſtatutes and ordeins, that all Tacks which ſhall be decerned by the ſaid Commiſſioners to be given in Recompence to any Perſon whatſomever for the Cauſes above-written, and which ſhall be ſet for Obedience, and conform to the ſaid Decreet and Sentence; whatſomever Years, or long Space the ſaids Tacks ſhall comprehend, ſhall be good, lawful, and ſufficient Securities to the Perſons in whoſe Favours the ſame are appoynted to be given and conceived, neither ſhall the ſame be any ways prejudged by the Act made in this preſent Parliament, by the which it is ſtatute, that no Arch-biſhop, Biſhop, or Prelate, ſhould ſet in Tack any Part of their Patrimony for longer Space nor Nineteen Yeares, and that no inferior beneficed Perſon ſhall ſet in Tack any Part of their Benefice for longer Space nor their awne Life times, and five Yeares thereafter, as the ſaid Statute proports, fra the which Statute the ſaids Tacks ſo appoynted to be ſet and given in Recompence, are and ſhall be excepted and reſerved, and ſhall no wayes come under the Compaſs of the ſaid Act and Statute, nor any thing therein conteined, but the ſame ſhall remain and abide valide and ſufficient Rights for the whole Space and Yeares appoynted therein, according to the Tenour thereof, notwithſtanding of the ſaid Act and Statute.

And becauſe it may fall furth, that in the Recompence to be appoynted by the Commiſſioners to the Patrons, Tackſmen, and Sub-

tackſmen,

tackſmen, for the foreſaid Burden to be impoſed upon them, moe Years may be aſſigned for Prorogation of their preſent Tacks, nor may lawfully or conveniently be ſet be the preſent beneficed Perſons to whom be Law the ſetting of Tacks of Teinds belonges: For Remeid thereof, our Soveraigne Lord, with Adviſe and Conſent of the Eſtates, declares, ſtatutes and ordeins, that it ſhall be lawful to the Commiſſioners foreſaids, to appoynt als many Yeares after the Expyring of the preſent Tacks, to the Tackſmen of the ſaids Kirks and Teinds, or to the Patrons or Subtackſmen *reſpective*, for bruiking of the ſaids Teinds for Recompence of the ſaid Burden as they ſhall think reaſonable, which ſhall be als good, valide and ſufficient Rights to the ſaids Patrons, Tackſmen, and Sub-tackſmen *reſpective*, and to their Heirs and Aſſignayes, for bruiking and poſſeſſing and diſponing upon the ſaids Teinds during the ſaids Yeares of Prorogation, as if good, lawful, and valide Tacks and Rights of the ſaids Teinds had been ſet and made to them be the Titulars of the Benefices to whom the ſame belonged, with Conſent of all Parties having Entreſſe. With expreſs Proviſion and Declaration, that at the Expyring of all the ſaids Yeares, the Right of the ſaids Teinds, and Power to ſet Tacks thereof, ſhall returne and appertein to the ſaids Titulars of the foreſaids Benefices, as they did before the making of this preſent Act.

And our ſaid Soveraigne Lord, with Adviſe of the ſaids Eſtates, declares and ordeins this Commiſſion to laſt and endure to the Feaſt and Terme of Lambes, in the Yeare of God One thouſand Six hundreth and Eighteen Years, after the which Time the ſame ſhall ceaſe and expire. And ordeins the Decreet and Sentence of the ſaid Commiſſioners in all the Particulars foreſaids, and every one of them, to have the Strength, Force, and Authority of an Decreet Sentence, *and Act of Parliament.* For Obedience whereof the Lords of Seſſion ſhall direct and grant Letters in Forme as effeirs, and according as ſhall be neceſſar. Which Commiſſion above-written, taking Force and full Effect in all the ſaids Particulars therein conteined, as the ſame are ſet down and comprehended therein, by Pronounciation of Decreet and Sentence upon the ſame, conforme to the Power therein comprehended, given to the ſaids Commiſſioners.

Our Soveraigne Lord, with the expreſs Conſent and Aſſent of the Eſtates in that Caſe, findes and declares, that no Perſon in whoſe favours the Teinds of Kirks and Benefices are erected, nor no other whatſomever bruiking Teinds, by vertue of Rights lawfully made to them of the ſame, according to the Lawes of this Realme then ſtanding, ſhall be ever farther altered or quarrelled in any of their

their ſaids Rights in any Time to come, farther than ſhall be appointed by the ſaid Decreet and Sentence to follow this preſent Commiſſion; but the ſaids Rights and Securities in Caſe foreſaid, ſhall remaine in the awne Strength, Force and Effect, as good, lawful, and ſufficient Rights and Securities to them, and every awne of them for their awne Parts, for bruiking and enjoying the ſaids Teinds, conforme to the Tenour of the ſaids Rights, for now and ever.

Extract of Act the Fifth, 1621, *anent the Plantation of Kirkes as yet unplanted.*

OUR Soveraigne Lord underſtanding that there be diverſe Kirkes within this kingdom, which by the late Commiſſion appointed for Plantation of Kirkes in the Parliament holden in *Junii* 1617. were not ſettled nor provided with conſtant Stipends, but which yet remain diſfurniſhed, and unprovided of competent means to be given to the Miniſters who ſhall be provided to the Charge and Function of the Cure of the ſame; and therewith alſo, his Majeſty conſidering that there have been heretofore ſundry Kirkes united together, and conjoined in one, albeit upon good Conſiderations it may be found more expedient that the ſame Union be diſſolved, and that the ſaid Kirkes be provided ſeverally with diſtinct Functions, and ſeparate Services, at ſuch Places where the Commodity may afford, in the ſame Manner as if no ſuch Union had been made, and ſuch like; becauſe there be ſome Kirkes, whereof the Parochine is of ſo large bounds, that many of the Parochiners dwelling in Townes of the Parochine ſo remote from the Kirke, who for the great Diſtance of the Place, or for the interjecting of Waters betwixt their Townes and the Kirkes, which oftentimes, and eſpecially in Winter, are not paſſable, or for ſome ſuch other known Impediment, cannot have Acceſs and Repair to the Paroche Kirkes at the ordinary Times appointed for Divine Service and Worſhip, and enjoy the Comfort of the Exerciſe thereof; and our Soveraigne Lord, according to the princely and godly endowments wherewith his Majeſty is ſingularly bleſſed, being moſt careful to eſtabliſh all good Order, and propagate the religious and true worſhip of God univerſally throughout all this whole Kingdom, wherethorow all his People may have Occaſion to participate the Benefit of the Word, without feeling of any of theſe Prejudices growing from the above-written Occaſions, which his Majeſty, in his Royal and Fatherly Care over his People, is moſt deſirous to have removed: Therefore his Majeſty, with expreſs Advice and Conſent

Conſent of the Eſtates of Parliament, hath granted full Power and Commiſſion to the Lord Chancellor, for the Time, and to the Reverend Fathers in God *John* Archbiſhop of *Saint Andrews*, &c. which aforeſaid Commiſſioners, or any Four of each Eſtate, nominate as ſaid is, conſenting and agreeing in one Voice, ſhall have Power to conſult, conveine, and determine upon the matters, and in manner underwritten; providing always, that there is, and ſhall be, requiſite to the Validity of any Act, Concluſion, Ordinance, and Determination of the ſaid Commiſſioners, the conjunct Aſſent of Four of every one of the ſaid Four Eſtates, all agreeing together in one Voice, without the which Conſent of the ſaid Four of every Eſtate ſo agreeing, the reſt of the ſaids Commiſſioners ſhall have no Power to make any valid or effectual Concluſion by vertue of this preſent Commiſſion; but whatever is otherwiſe done, is declared to be of none Avail, Force nor Effect; that is to ſay, Our Soveraigne Lord, and Eſtates of Parliament, by the Tenor hereof, gives, grants, and commits, full Power and Authority to the ſaids Commiſſioners, to meet and conveine in the Town of *Edinbourgh*, at ſuch time and times as they ſhall appoint and find convenient, and there to call and ſumonde before them, all Patrones, Tackſmen of Teynds great and ſmall, and others having Right, by whatſoever Title, of the Teynds of any of the Kirkes of this kingdom, which are not already planted by the foreſaid Firſt Commiſſion, and which ſhall anyways be meddled with by this preſent Commiſſion, as they ſhall think neceſſary and expedient, to exhibit and produce before them their Rights and Titles whereby they claim their ſaid Teyndes, to be ſeen and conſidered by the ſaid Commiſſioners, with Power unto them, out of the ſaids Teynds of every Parochine and Kirke not already planted, to appoint and aſſign, at their Diſcretions, a perpetual local Stipend to the Miniſter preſent, and to come, at all the ſaid Kirkes unprovided, as ſaid is; and that notwithſtanding any Right or Title pretended by the ſaid Tackeſmen, or others, in whoſe favours Teyndes have been erected; with Power alſo to the ſaids Commiſſioners to diſunite ſuch Kirkes, one or more, as were united of before, and appointed to be ſerved by One Miniſter, and as they upon good Conſiderations ſhall find requiſite, to appoint the ſame to be ſerved by ſeveral Functions and Charges as diſtinct Parochines, after ſuch manner as ſhall be found by them moſt expedient; providing always, that all Parties having Intereſe in the Union and Diſuniting of the ſaids Kirkes, and Plantation thereof, give their expreſs Warrand and Conſent thereunto.

In the which Caſe of Plantation and Proviſion of the Kirkes which ſhall be disjoined, as ſaid is, the Preſentation of the Miniſters ſhall be appointed by the ſaids Commiſſioners to pertain to the

Patrons, conform to their Rights thereof, to be produced before them, and as the ſaids Lords Commiſſioners ſhall find moſt agreeable to Reaſon and Equity; with Power likewiſe to the ſaids Commiſſioners to appoint and ſet down ſuch ſolide Order for erecting and building of new Kirkes in any Parochines where they ſhall find Neceſſity and Conveniency to do the ſame, and where the Parochiners are not preſently well and commodiouſly ſerved at the preſent Kirkes of the Parochine, as they ſhall find moſt expedient; and the ſaids Kirkes being erected, with Power to the ſaids Commiſſioners to provide the ſame with ſuch Proportion of Stipends as they ſhall find may be, with leaſt Prejudice, and beſt Comoditie, made out of the Fruits of the ſaids Parochines to the Miniſters to be appointed to ſerve at the ſaids new builded Kirkes; to the which building and makeing of new Kirkes, and providing of the ſame with competent Stipends, the ſaid Eſtates finds and declares, that it ſhall be expreſly neceſſary, that the Patrons, Tackeſmen, and other Parties having Intereſt in the Erection and Building the ſaids new Kirkes, and in the Planting and Proviſion thereof aforeſaid, give their expreſs Warrand and Conſent thereunto; which being ſo had and obtained, with Power to the ſaids Commiſſioners to proceed therein as is moſt agreeable with Reaſon.

It is always declared, that in all and every one of the Caſes above-written; that is to ſay, either in providing of Kirkes not planted of before, or in diſuniting of Kirkes formerly joined, and appointing of ſeveral and diſtinct Stipends to the ſame; or in the erecting of new Kirkes, and Proviſion of them with Miniſters and Stipends; the ſaids Commiſſioners ſhall have expreſs Power and Warrand to determine and appoint ſuch Proportion and Quantity as they ſhall find expedient, either amounting over the Sum of Five hundreth Merks, or beneath and under the ſame, as they ſhall find may moſt conveniently and commodiouſly be had, after the Conſideration of the Quantity and Eſtate of the Fruits of the Kirk, and the Caſe wherein the ſame is, and as may be with leaſt Prejudice ſpared out of the ſame: And the ſaid Eſtates finds and declares, that the ſaids Commiſſioners ſhall have no Power, by vertue of this Commiſſion, to alter or meddle with any Kirk which was ſettled by vertue of the foreſaid Commiſſion granted in *Anno* 1617 Yeares, or to change the Eſtate thereof in anywiſe, or yet to erect, build, or provide any new Kirk, without the ſpecial and expreſs Conſent of all Parties having Intereſs had and obtained thereunto, without whoſe Conſents it ſhall not be lawful for the ſaids Commiſſioners in anywiſe to touch the ſaid Kirks ſo provided; but the ſame are expreſly excepted (except in Caſe of Conſent foreſaid)

out

out of this preſent Commiſſion, &c. And our ſaid ſoveraigne Lord, with Adviſe of the Eſtates, declares and ordains this preſent Commiſſion to begin upon the Tenth Day of *January* next to come, with Continuation of Days, and to laſt and endure during the Space of Year and Day thereafter, after the which Time the ſame ſhall ceaſe and expire; and ordains the Decrete and Sentence of the ſaids Commiſſioners in all the Particulars foreſaids, and every one of them to have the Strength, Force, and Authority of a Decrete, Sentence, and Act of Parliament; for Obedience whereof the Lords of Seſſion ſhall direct and grant Letters in Form as effeires, and according as ſhall be neceſſary; which Commiſſion above-written taking Force and full Effect in all the ſaids Particulars therein contained, as the ſame are ſet down and comprehended therein, by Pronunciation of Decrete and Sentence upon the ſame, conform to the Power therein conprehended given unto the ſaids Commiſſioners.

Our Soveraigne Lord, with expreſs Conſent and Aſſent of the Eſtates in that Caſe, finds and declares, that no Perſon in whoſe favours the Teinds of Kirkes and Benefices are erected, nor no other whatſoever bruiking Teinds, by vertue of Rights lawfully made to them of the ſame, according to the Laws of this Realm then ſtanding, ſhall be ever farther altered or quareled in any of their ſaids Rights in any Time to come, further than ſhall be appointed by the ſaid Decrete and Sentence to follow upon this preſent Commiſſion: But the ſaids Rights and Securities, in caſe foreſaid, ſhall remain in their own Strength, Force, and Effect, as good, lawful, and ſufficient Rights and Securities unto them, and every one of them, for their own Parts, for bruiking and enjoying the ſaids Teinds, conform to the Tenor of the ſaids Rights for now and for ever.

Of Ratification of the Act of Commiſſion anent the Miniſters Proviſions.

Act 1633. No. VIII. Vol. II. p. 24.

OUR Soveraigne Lord, with the Advice and Conſent of the Eſtates of Parliament, ratifies and approves the Act of Commiſſion of Surrenders and Teinds, of the Date at *Holy-rude-houſe* the Twentie-ſixth Day of *June*, the Yeare of God 1627 Yeares, whereof the Tenor follows. The Commiſſioners after reaſoning upon the *loweſt* Proportion and Proviſion, wherewith the Miniſtrie ſerving the Cure at each Kirke, ſhall be provided, have found it meet

meet and expedient, that the *loweſt* Proportion ſhall be Eight Chalder of Victual, where Victual is payed, or proportionally in Silver or Victual, as the Commiſſioners ſhall appoint, at the ſetling of the Kirke, and according to the Eſtate of that Part of the Country, where the Payment of the Stipend ſhall occurre. And think it meet, that the ſaid Proportion of Eight Chalder of Victual, or proportionally in Silver, as ſaid is, ſhall be the *loweſt Maintenance* to each Kirke, *except ſuch particular Kirkes occurre, wherein there ſhall be a juſt, reaſonable, and expedient Cauſe to goe beneath the Quantitie now determined.*

And his Majeſtie, and Eſtates foreſaids, referre to the Commiſſioners to be choſen by his Majeſtie, at this preſent Parliament, the Conſideration of the Reaſons and Cauſes, which may move them (after the Valuation of the true Worth of the Teinds of ilke Pariſh be cloſed) to determine and modifie *a leſs Quantitie* for the Miniſters Maintenance, nor the Quantitie foreſaid of Eight Chalder of Victual, or *Eight hundreth Marks* in Victual or Moneys proportionally. And what the ſaids Commiſſioners ſhall determine therein, the ſame *to ſtand* notwithſtanding of this preſent Ratification. And alſo his Majeſty and Eſtates ratifie and approve the whole particular Acts of the ſaid Commiſſion of Surrenders and Teinds, whereby *Stipends are appointed and* modified by the ſaids Commiſſioners alreadie, and ordaine the Miniſters to whom the ſame is aſſigned, to have Intromiſſion therewith: And that the Lords of Seſſion direct Letters of Horning and Poynding, in favour of the ſaid Miniſters, conforme thereto, upon one ſimple Charge of Ten Days allennerly. And alſo upon all other Acts to be made for Plantation of Kirkes by the Commiſſioners appointed by his Majeſtie and Eſtates for that Effect. And it is declared, That theſe Preſents ſhall be without Prejudice to the Titulars and others having Intereſt to purſue for rectifying of ſuch Valuations, as are or ſhall be enormely undervalued, and alſo without Prejudice of the Miniſters Maintenance and Augmentation proportionally effeiring to the true and juſt Worth of the Teind, *&c.*

19. *Commiſſion for Valuation of Teinds* not Valued, *rectifying the Valuations of the ſame already made, and other Particulars therein contained.*

Act 1633. No. XIX. Vol. II. p. 53.

FOR ſo much as our Soveraigne Lord, immediately after his happy attaining to the Crowne of this his ancient and native Kingdome,

Kingdome, did out of his royal and fatherly Care to the publique Good thereof, give forth his royal Declaration, anent the reforming of the Abuſes uſed in leading of Teinds, and for Proviſion and Maintenance of Kirks and other pious Uſes forth of the ſaids Teinds. And alſo for reſtoring the Crowne to the Superiorities of whatſoever Benefices and Temporalities thereof erected in temporal Livings, and againſt other Prejudices and Detriments done to the Crowne, mentioned in the ſaid Declaration. And albeit his Majeſty hath been ſtill urging and following the Performance of the Particulars foreſaid theſe Five Years by-gone, or thereabout, by Commiſſion direct by his Majeſtie under his Great Seale, to that Effect; wherein there hath been good Progreſs made, yet the ſame could not take a full End without the Authority of a Parliament: Like-as his Majeſtie, out of his earneſt and tender Affection to the publique Good of this his native Kingdome, and for advancing the ſaids great and glorious Works intended by his Majeſtie, as ſaid is, hath taken the Pains to come hither in his royal Perſon, where his Majeſtie being preſent in ſolemn Parliament, with his Three Eſtates of his ſaid ancient Kingdome, Have reſolved and concluded upon the particular Acts and Statutes after following, tending to the publique Good, Peace, Eaſe, and Comfort of his ſaid Kingdome and Subjects thereof: *viz.* His Majeſtie and Eſtates foreſaid have ratified the Act of Commiſſion of Surrenders and Teinds, of the Date at *Holy-rude-houſe* the Twentie-ſixth Day of *June*, 1627 Years, whereby it is found meet and expedient, that the *loweſt* Proportion for Maintenance of Miniſters ſhall be Eight Chalder of Victual, or *Eight hundreth Markes* proportionally, *except ſuch particular Kirkes occurre, wherein there ſhall be a juſt, reaſonable, and expedient Cauſe to go beneath the foreſaid Quantitie:* And hath referred the Conſideration of the Reaſons and Cauſes thereof to the Commiſſioners to be choſen by his Majeſtie, with Conſent of the Eſtates, in Manner contained in the ſaid Act. Like-as alſo his Majeſtie and Eſtates, by another Act and Ordinance, hath ſtatute, ordained, and declared, that *each Heritor and Life-renter of Lands, reſpective, ſhall have the leading and drawing of their own Teinds*, the ſame being firſt truely and lawfully valued, and they paying therefor the Price after-ſpecified, in caſe they be willing to buy the ſame, or otherwiſe, for the yearly Payment of the Rate of Teinds after-ſpecified. Like-as his Majeſtie and Eſtates have, by the ſaid Act, found and declared, that the true and juſt Rate of Teind is, and ſhall be the Fifth Part of the conſtant Rent, which ilk Land pays in Stock and Teind where the ſame are valued jointly; and where the Teinds are

valued

valued apart and ſeverally, that the juſt Rate thereof is and ſhall be ſuch as the ſame is *already* by vertue of the former General Commiſſion of Surrenders and Teinds proved and valued to; or elſe *ſhall be hereafter* valued and proved before the Commiſſioners to be appointed by his Majeſtie with Conſent of the Eſtates, deducing the Fifth Part thereof for the Eaſe of the Heritors: Reſerving alwaies Liberty to ſuch as ſhall find themſelves enormely hurt by the leading of the ſaids Valuations, to purſue for rectifying of the ſame before the ſaids Commiſſioners to be appointed by his Majeſtie and Eſtates foreſaids. Like-as his Majeſtie and Eſtates have, by the ſaid Act, found and declared, that the Price of all Teinds which may be ſold and annalied, conſiſting either in Money, Victual, or other Bodies of Goods, is, and ſhall be ruled and eſtimate according to *Nine Yeares Purchaſe*. The Prices of Victual and other Bodies of Goods, whereof the Teinds conſiſt, being redacted in Money according to the Worth and Prices of Victual and Goods in ilk Part of the Countrie, to the which the ſame is and ſhall be prized and eſtimate by the ſaids former Commiſſions of Surrenders and Teinds, or by the Commiſſioners to be appointed by his Majeſtie, with Conſent of the Eſtates: And alſo have found and declared, that ilk Heritor in the Kingdome, being willing to buy his own Teind from the Titulars, having Power to ſell the ſame, ſhall be obliged to buy the Teind of his own Lands, except ſo much as ſhall be locally aſſigned to the Miniſter ſerving the Cure for his Maintenance; and to pay the Prices foreſaid to the Titulars betwixt and the particular Times and Diets expreſt in the ſaid Act. And alſo have found that the Heritors ſhall be obliged to give to the Life-renter of the Lands, the leading of their own Teinds for Payment of the Rate of Teind for the ſame. And alſo have found, that in all Caſes where Teinds are not coft, that the Heritors or Life-renters of Lands, who have the leading of their own Teinds by themſelves, their Tenants, and others in their Names, ſhall be obliged to pay to the Titulars of the ſaids Tiends the yearly Rate thereof, according to the Order ſet down and preſcribed by the former Commiſſion, or to be ſet down by the Commiſſioners to be appointed by his Majeſtie, with Conſent of the Eſtates, deducing ſo much thereof as ſhall be aſſigned to the Miniſters for their Maintenance.

And becauſe ſundry Queſtions may ariſe anent the Valuations of Teinds and Prices thereof, and anent the Securities to be made by the Titulars to the Heritors who buy their Teinds; and by the Heritors to the Titulars of the Price to be payed for the ſame, when the Teinds are coft, or for Payment of the Rate of Teind where the

the ſame is not coſt; and anent the Proviſions of the Kirks, with competent Maintenance, and other Particulars mentioned in the ſaid Act; Therefore his Majeſtie and Eſtates, by the ſaid Act did referre the Determination thereof to the Commiſſioners to be appointed by his Majeſtie and Eſtates, with theſe Declarations alwaies, that his Majeſtie ſhall have his Annuitie payed forth of the Teinds according to the Tenour of the ſaid Act of Annuitie; and that the Archbiſhops, Biſhops, Parſons, Vicars, and other beneficed Perſons, being Miniſters, and their Succeſſors, ſhould be no farther obliged in any of the Premiſes, but according to the Proviſions and Conditions expreſt in the Submiſſion made by the Biſhops to his Majeſtie, which is of the Date the Day of 1628 Years; and regiſtrate in the ſaids Books of Surrenders and Teinds, upon the Thirteenth of *July*, 1631 Years. And that the Vicarages of ilk Kirk, being a ſeveral Benefice and Title, ſhould be ſeverally valued, to the Effect the Titulars and Miniſters ſerving the Cure, who have Right to the ſaids Vicarages, would not be fruſtrate of the true Worth of the ſaids Vicarages. And ſik-like, his Majeſtie and Eſtates by another Act have found and declared, that his Majeſtie and his Succeſſors have and ſhall have undoubted Right to the Superiorities of whatſoever Erections, Few-mails, Few-fermes, and other Caſualities thereof, reſerving to ſuch Lords and Titulars of Erection, who ſubſcribed the General Surrender, the Few-mails, and Few-fermes of the ſaids Superiorities, ay and while they receave Payment and Satisfaction of the Summe of *One thouſand Markes* uſual Money of *Scotland*, for ilk Chalder of Few-ferme Victual; and for ilk *Hundred Markes* of Few-mailes, and for ilk *Hundred Markes* of all other conſtant Rent of the ſaids Superiors, not conſiſting in Victual or Money; and not being naked Service of Vaſſals, according to the Tenour of his Majeſtie's General Determination; and conforme to the Conditions therein-contained, as in the ſaids Three Acts of this preſent Parliament at more Length is expreſt.

And foraſmuch as it is neceſſary for the Determination of the Particulars foreſaid, and of all ſuch other Points which are fit and expedient for the finiſhing and full Perfection of the ſaid glorious Worke, anent the Teinds, Maintenance of Miniſters and others foreſaid, that a Commiſſion be granted by his Majeſtie, with Conſent of the Eſtates, and by Authority of this preſent Parliament: Therefore his Majeſty, with Conſent of the ſaid Eſtates, hath granted, and by theſe Preſents granteth full Power and Commiſſion to the Perſons after following: To wit, Nine of the Clergy, Nine of the Nobility, Nine of the ſmall Barrons, and Nine of the Burgeſſes: Together

Together with my Lord Chancellour, and Eight Officers of State, *viz.* *George* Earle of *Kinnowll*, *Chancellour*, *William* Earle of *Moreton Theſaurer*, *John* Archbiſhop of *Saint-Andrews*, *Thomas* Earle of *Hadingtown*, *Lord Privie Seale*, *Patrick* Archbiſhop of *Glaſgow*, *William* Earle Marſhal, *George* Earle of *Wintown*, *John* Earle of *Perth*, *John* Earle of *Kinghorne*, *William* Earle of *Dumfreis*, *William* Earle of *Sterling* Secretary, *David* Earle of *Southesk*, *John* Earle of *Traquair* Theſaurer Depute, *John* Earle of *Weymes*, *Archibald* Lord *Napier*, *George* Lord *Corſtorpheine*, *Alexander* Biſhop of *Dunkell*, *John* Biſhop of *Murray*, *John* Biſhop of *Roſs*, *Adam* Biſhop of *Dumblane*, *David* Biſhop of *Brichen*, *Andrew* Biſhop of *Argyll*, *George* Biſhop of *Orknay*, Sir *John Hay* Clerk of Regiſter, Sir *Thomas Hope* Advocate, Sir *George Elphingſtone*, Juſtice Clerk, Sir *James Galloway*, Maſter of Requeſt, Sir *Robert Spotſwood*, Sir *James Learmonth*, Sir *James Lockhart* younger of *Ley*, Sir *John John Charters*, Sir *Robert Grier*, *John Boyel* of *Kelburnie*, Sir *William Dowglas* of *Cavers*, the Laird of *Inchemarteine*, the Laird of *Lugtown*, *John Sinklar*, *John Macknacht*, *Archibald Tod*, *Edward Edger*, Maſter *Alexander Guthrie*, *Gabriel Cuninghame*, *Robert Tailyeour*, *William Mickle-John*, and Maſter *Robert Cuninghame*; or any Fifteen of them, there being Three of every Eſtate, with Three of his Majeſtie's Officers of Eſtate. Of which Number of Fifteen, the Lords Chancelleor, Theſaurer, and Privie Seal, Archbiſhops of *Saint-Andrews* or *Glaſgow*, Earle Marſhal, and Earle of *Wintown*, or any of them, ſhall be one, to meet and conveen at *Holy-rude-houſe*, or *Edinburgh*, at ſuch Times and Places as they ſhall think fit; and there to proſecute and follow forth the Valuation of whatſoever Teinds, Parſonage or Vicarage within the Kingdome, which are as yet *unvalued*. And alſo to receive the Reports from the Sub-commiſſioners, appointed within ilke Presbyterie, of the Valuation of whatſoever Teinds, led and deduced before them, according to the Tenour of the Sub-commiſſions direct to that Effect. And to allow or diſallow the ſame, according as the ſame ſhall be found agreeable or diſagreeable from the Tenour of their Sub-commiſſions. And alſo with Power to rectifie whatſoever Valuations, led or to be led, to the enorme Prejudice of the Titulars, and to the Hurt and Detriment of the Kirk, and Prejudice of the Miniſters Maintenance and Proviſions, or of his Majeſtie's Annuitie. And for the better expeding and advancing of the ſaids Valuations, with Power to appoint Committies, or Sub-committies of their owne Number, to receive the Reports of the ſaids Valuations made or to be made; and to receive, admit and examine Witneſſes, and to take Parties Oathes, with their Depoſitions, where

where the ſame is referred to Oath; and to give ſuch farther Power to the ſaids Committies or Sub-committies of their owne Number, as they ſhall think fit for the Good of the Worke, and ſpeedy finiſhing of the ſame; and ſik-like, with Power to them if need be, to appoint Sub-commiſſioners, not being of their own Number, within any Parochin or Presbyterie of the Countrie, for leading and deducing of the ſaids Valuations, and to receive the Reports thereof, allow or diſallow of the ſame: And generally, with Power to them, to ſet down whatſoever other Order or Courſe which ſhall be thought fit and expedient for Diſpatch of the ſaids Valuations, rectifying thereof, or final Cloſing of the ſame. And ſik-like, with Power to the ſaids Commiſſioners, or any fifteen of them, as ſaid is, there being Three of ilk Eſtate, with any one of the Perſons of the *Quorum* above-ſpecified, after the Cloſing and Allowance of the Valuations of ilk Kirk and Parochin, to appoint, modifie, and ſet down a *conſtant and local Stipend and Maintenance to* ilk Miniſter, to be payed out of the Tiends of ilk Parochine, according to the Tenour of the Acts above-ſpecified. Referring, like as his Majeſtie referres with Conſent of the ſaids Eſtates, to the ſaids Commiſſioners, the Trial of the Reaſons and Cauſes which may move the ſaid Commiſſioners *to go beneath the Quantitie of Eight Chalder of Victual*, or of *Eight hundred Markes* of Money proportionally, in Manner contained in the ſaid Act. And ſik-like, with Power to the ſaids Commiſſioners, *to divide* ample and ſpacious Parochines, where the ſame ſhall be found neceſſarie and expedient, or *to unite* divers Kirks in Whole or in Part to others; and to ratifie and allow after Trial and Conſideration ſuch Union or Diſmembring of Parochines, as hath been formerly made by vertue of the former Commiſſions; and ſik-like with Power to them, to appoint and provide for ſuch other pious Uſes in each Parochin, as the Eſtate thereof may bear. And ſik-like, with Power to the ſaid Commiſſioners, as ſaid is, to take order that *every Heritor and Life-renter* of Lands, ſhall have *the leading* of their own Teinds, Parſonage and Vicarage thereof, they paying the Price contained in the Act above-ſpecified, in caſe they be willing to buy the ſame from the Titular, having Power to ſell, or otherwiſe paying the Rate of Teind expreſt in the foreſaid Act; and to that Effect, with Power to the ſaid Commiſſioners to ſet down the Prices of ſellable Teinds according to the Worth thereof in each Part of the Countrey, where the ſame grow and are bred; and alſo with Power to them to ſet down ſuch good and ample Securities, as may ſtand by Law, both for the Buyers of Teinds, to the Effect the Titulars may be fully denuded in their Favours: And alſo for Securitie to the Titulars and Sellers of the

Price due to be payed to them for the ſaid Teind; and alſo to ſet downe the Securitie in favour of the Titulars and of the Miniſters, ſo farre as concernes the Maintenance aſſigned to them, for good, thankful, and timous Payment of the Rate of Teind, where the ſame are not, or cannot be ſold. And ſik-like with Power to the ſaids Commiſſioners, to diſcuſſe and determine all Queſtions which may ariſe betwixt the Titulars and Heritors, anent the Price of Teinds, according to the Nature and Qualitie of the Rights to be ſold, whether the ſame be heritable or temporal, and to proportionate the Price accordingly: And alſo to divide the Price of Teinds betwixt Heritors and Life-renters thereof; and betwixt Titulars, Tackſmen, and others who have ſeveral and diſtinct Rights to the ſaids Teinds ſellable, according to the Qualitie of their Rights: And alſo with Power to them, to cauſe the Titulars who ſell their ſaids Teinds, to exhibit their Rights and Titles, to the effect that they may be lawfully denuded thereof, in favour of the ſaids Heritors and Life-renters *reſpective*, without Prejudice always to his Majeſtie's Annuitie, to be payed forth of the ſaid Teinds by the ſaids Titulars of Teinds, or Heritors, or Life-renters of Lands, according to the Tenor of the ſaid Act of Annuitie; and generallie with Power to the ſaids Commiſſioners, to decide and determine in all other Points, which may concerne the leading and drawing of Teinds, the ſelling and buying of the ſame, or Payment of the Rate thereof, contained in the Acts of Parliament above-ſpecified, or ſet downe in his Majeſtie's general Determination: With this Proviſion and Declaration alwayes, that the Archbiſhops, Biſhops, Parſons, Vicars, and other beneficed Perſons, being Miniſters, and their Succeſſors, ſhall be no farther bound but according to the Proviſions and Conditions expreſt in the Submiſſion made by the Biſhops to his Majeſtie, which is of the Date the Day of 1628 Years, and regiſtrate in the Books of Commiſſion of Surrenders and Teinds, upon the 13th Day of *July* 1631. Which Proviſions and Conditions are holden as expreſt herein; and alſo with this Proviſion, that the Vicarages of each Kirk being a ſeveral Benefice and Title from the Parſonage, ſhall be ſeverally valued, to the Effect the Titulars or Miniſters ſerving the Cure, who have Right to the ſaids Vicarages, be not fruſtrate of the true Worth of the ſaids Vicarages; and ſick-like, becauſe by the Act above-ſpecified, made anent Superiorities of Erections in favour of his Majeſtie, there is ſpecial Reſervation made to ſuch Titulars and Lords of Erection, as have ſubſcribed the General Surrender of the Few-mails, Few-fermes, and other conſtant Rent of the ſaids Superiorities, ay and while they be payed of the Price thereof contained in

his

his Majeſtie's General Determination, and according to the Proviſions ſpecified therein. Therefore his Majeſtie and Eſtates give full Power to the ſaids Commiſſioners, or any Fifteen of them, as ſaid is, to call and conveen before them the Lords of Erection, and others having Right to the ſaids Few-mails and Few-fermes, and other conſtant Rent of the Superiorities of Kirk-lands, at ſuch particular Diets as they ſhall appoint, and to urge the ſaids Lords of Erection and others foreſaids, to give up their Rentals of their ſaid Few-mails, Few-fermes, and other conſtant Rent foreſaid of their ſaids Superiorities, conforme to his Majeſtie's Decreet and Determination given out thereanent; and with Certification as is therein contained, and to liquidat the other conſtant Rent of the ſaids Superiorities, not conſiſting in Victual or Silver: To the effect that after the full Tryal of the ſaid Rental and Liquidation thereof, the ſaids Lords of Erection may receive the Price of *a Thouſand Marks* for each Chalder of Few-fermes, and for each *Hundred Marks* of the other conſtant Rent, being reducted in Money in whole or in part proportionally from his Majeſtie's Theſaurers, Principal or Depute; and in caſe of the Abſence and Refuſal of the ſaids Titulars and Lords of Erection, that the ſame may be conſigned in the Hands of the Clerke to the ſaids Commiſſioners, to remain conſigned for their behove; after the whole Conſignation, it ſhall be lawful to his Majeſty's Theſaurers, Principal or Depute, to uplift, receive, and intromet with ſaids Few-mails and Few-fermes, and other conſtant Rent foreſaid, of all Yeares and Termes after the ſaid Conſignation, according to the Tenour of the ſaid general Determination; and alſo with Power to the ſaids Commiſſioners, as ſaid is, to diſcuſs and determine all Queſtions that may ariſe betwixt the ſaids Lords of Erection and the Heritors of the Ground, Penſioners, Life-renters, and others pretending Right to the ſaids Few-mails and Few-fermes, and to divide the Price amongſt them, according to the Qualitie of their Rights, and all other Queſtions anent the Few-mails, Few-fermes, and other conſtant Rent foreſaid: Which by his Majeſtie's general Determination is referred to the Determination of the Commiſſioners to be appointed to that Effect. And whereas it may fall out that ſome of the Commiſſioners now appointed by his Majeſtie and Eſtates, may be unable to attend the Service, through Death, Sickneſſe, or ſome other notour and known Impediments; therefore his Majeſtie reſerves to himſelf the Nomination of ſuch other Perſon in their Places, as his Majeſtie ſhall think fit, whom his Majeſtie by his Letters ſhall recommend to the ſaids Commiſſioners, to the Intent they may receive and admit them upon the ſaid Commiſſion, and take their

Oathes

Oathes for faithful Diſcharge of the ſame. And his Majeſtie and Eſtates ordaine this preſent Commiſſion to endure unto the laſt Day of *December* in the Yeare of God 1635 Yeares: And farther during his Majeſtie's Pleaſure, and ay and while the ſame be expreſly diſcharged by his Majeſtie's Warrand, or Letter to that Effect. And his Majeſtie, with Conſent of the Eſtates foreſaids, findes, declares, and ordains the Acts, Decreets, and Ordinances of the Commiſſioners foreſaids, and of the other Perſons, who ſhall be ſurrogate in their Places by his Majeſty in manner foreſaid, in the whole Particulars above-ſpecified, and every one of them to have the Strength, Force, and Authoritie of a Decreet, Sentence, *and Act of Parliament*, and ordaines the Lords of Seſſion to grant and direct Letters of Horning, Poynding, and others thereupon, upon a ſimple Charge of Ten Dayes, or otherwiſe as ſhall be found neceſſary. Attour for clearing of all Doubts and Difficulties which may ariſe anent the rectifying of Valuations, or other particular Heads following, His Majeſtie and Eſtates have declared and declare, that where Valuations are lawfully led againſt all Parties having Intereſt, and allowed by the former Commiſſioners according to the Order obſerved by them, that the ſame ſhall not be drawne in queſtion nor rectified upon Pretence of enorm Leſion, at the Inſtance of the Miniſter, not being Titular, or at the Inſtance of his Majeſtie's Advocat, for and in reſpect of his Majeſtie's Annuitie, except it be proved that Colluſion was uſed betwixt the Titular and Heritor, or betwixt the Procurator-Fiſcal and the Titulars, and Heritors, which Colluſion is declared to be where the Valuation is led, with Diminution of the Third of the juſt Rent preſently payed, and which Diminution ſhall be proved by the Parties Oathes. And ſick-like it is declared, that the Proviſions contained in the foreſaid Submiſſion made by the Biſhops, whereof Mention is made in the foreſaid Act of Tithes, and which is repeated in this Commiſſion, ſhall be reſtricted to that whereof Archbiſhops, Biſhops, Parſons, Vicars, or other beneficed Perſon being Miniſters, Colleges, Hoſpitals, and other Donations to pious Uſes, were in actual and real Poſſeſſion the time of the ſaid Submiſſion, which ſhall remaine with them in Quantity and Quality, according to the Tenour of the ſaids Proviſion: and if any Queſtion ſhall ariſe betwixt the ſaids Archbiſhops, Biſhops, Parſons, Vicars, and other beneficed Perſons foreſaids, anent the leading of Teinds, that the ſame ſhall be referred to his ſacred Majeſtie, and to his Royal Pleaſure to be ſignified thereanent. And alſo anent Laick Patronages pertaining to any his Majeſtie's Subjects, before the Yeare of God 1561 Yeares, His Majeſtie and Eſtates declare that the ſame falls

falls within the Compaſſe of the general Submiſſion made to his Majeſtie, and his Majeſtie's Determination given thereupon, and that allenarly in ſo farre as concernes a competent Maintenance, to be locally payed forth of each Church, to the Miniſter and his Succeſſors; and anent the Tiends of other Mens Lands, and anent the Annuitie to be paid to his Majeſty forth of the Teinds of the ſaid Kirk: And as to the remanent Teinds of the ſame to pertaine to Laick Patrons in Price or Rate thereof in all Caſes, where the foreſaid Laick Patrons were in Poſſeſſion of the Teinds thereof, by the Space of Seven Yeares, within the Fifteen Yeares immediately preceeding the Date of the ſaid general Submiſſion; with this Declaration, that where the Titulars or the Miniſters provided to the ſaids Laick Patronages and Kirks thereof were in Poſſeſſion of the Benefices foreſaids, and Fruites and Rents thereof, either by leading of the Teinds, or by uplifting and intrometting with the whole Rents thereof, by the Space of Seven Yeares of Fifteen Yeares immediately preceeding the ſaid Submiſſion; in theſe Caſes, the Difference betwixt the ſaid Laick Patrons, and the Titulars, and Miniſters, ſhall be referred to his ſacred Majeſty, and to his Royal Declaration to be given thereanent; and ordaines all former Commiſſions anent the Premiſes to ceaſe in time coming, and this only to ſtand in Force in time to come.

Act 1707. No. IX. Vol. III. p. 764.

9. *Act anent Plantation of Kirks and Valuation of Teinds.*

OUR Soveraigne Lady, and the Eſtates of Parliament, conſidering the great Prejudice that does redound to this Nation through the Want of an eſtabliſhed and fixed Judicature, which may cognoſce and determine in ſuch Cauſes and Things, as by former Parliaments were referred to their *Commiſſion for Plantation of Kirkes, and Valuation of Teinds*, and through the Loſs of the Regiſters of that Court, which were burnt in the late Fire that happened in this Place; *therefore*, her Majeſtie and the ſaid Eſtates, do hereby *impower, authoriſe and appoint* the Lords of Council and Seſſion to judge, cognoſce, and determine in all Affairs and Cauſes whatſoever, which by the Laws and Acts of Parliament of this Kingdom were formerly referred to, and did pertain and belong to the Juriſdiction and Cognizance of the Commiſſions formerly appointed for that Effect, as fully and freely in all reſpects, as the ſaid Lords do or may do in other Civil Cauſes; and particularly, but Prejudice to the Generality foreſaid, to determine in all Valuations

and

and Sales of Teinds, to grant Augmentations of Miniſters Stipends, Prorogations of Tacks of Teinds, to *disjoin* too large Paroches, to erect and build new Churches, to annex and diſmember Churches as they ſhall think fit, *conform* to the Rules laid down, and Powers granted, by the Nineteenth Act of the Parliament One thouſand Six hundred and Thirty-three, the Twenty-third and Thirtieth Acts of the Parliament One thouſand Six hundred and Ninety, and the Twenty-fourth Act of the Parliament One thouſand Six hundred and Ninety-three, in ſo far as the ſame ſtand unrepealed: The tranſporting of Kirks, disjoining of too large Paroches, or erecting and building of new Kirkes, *being always with the Conſent of the Heretors* of Three Part of Four at leaſt of the Valuation of the Paroch, whereof the Kirk is craved to be tranſported, or the Paroch to be disjoined, and new Kirks to be erected and built, the Miniſter in the mean time to ſerve the Cure in the preſent Kirk of the Paroche; and for that Effect *appoints* the ſaid Lords to meet and ſit each *Wedneſday* in the Afternoon during the Time of Seſſion, and to call and diſcuſs the ſaid Cauſes ſummarily, conform to a Roll to be made up and kept of the ſamen. And for ſupplying the loſt Regiſters of that Court, her Majeſtie and the ſaid Eſtates, do hereby *appoint* and *ordain*, that any authentick Extracts from the ſaid Records be brought in, and being preſented to the ſaid Lords, be recorded in a particular Regiſter, and that the ſaid Extracts ſo brought in, be kept by the Lord Clerk Regiſter, and his Deputs, Clerks to be appointed by him for that Effect, as their Warrants, which ſhall be held and repute as valid and authentick as the principal Warrants themſelves, if the ſame were yet extant: And the Lord Regiſter and his Deputs, are ordained to give a new Extract *gratis*, to every Perſon that ſhall give in an old Extract, immediately upon Delivery thereof; and that Extracts from theſe new Records ſhall make the like Faith in Judgment, and out-with the ſame, as the Extracts from the old Regiſters of the Commiſſion were wont to do before the ſame were burnt. And further, impowering the ſaid Lords, upon ſuch Evidents and Adminicles as they ſhall ſee Cauſe, to make up the Tenour of ſuch Decreets, in Manner above-mentioned, whereof Extracts are amiſſing, and the Regiſters loſt in the ſaid Fire; declaring hereby, that the Lord Regiſter, and his Deputs, to be appointed by him, as ſaid is, ſhall have the ſole and only Power and Privilege of raiſing and ſubſcribing of the Summonſes and Diligences relating to the Affairs above-written, the ſame always paſſing her Majeſty's common Signet as formerly; and alſo declaring, that the Macers of Privy-Council, who by their Gifts did attend and

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officiat before the ſaid Lords of Seſſion, in the Matter committed to them by this Act, as they were in Uſe to do before the Commiſſion, and none elſe. And laſtly, it is hereby declared, That this preſent Act and Commiſſion ſhall be ſubject, nevertheleſs, to ſuch Regulations and Alterations as ſhall be made by the Parliament of *Great Britain.*

Act 75, 1540.

The Ordour of Summounding of all Perſons in Civil Actiones.

ITEM, for Eſchewing of great Inconveniencys and Fraud done to our Sovereign Lord his Lieges, by ſummounding of them at their dwelling Places, and oftimes falſely, and getis never Knowledge thereof: It is ſtatute and ordained, that in Times cuming, quhair ony Officiar or Scheriffe, in that Parte, paſsis at Commande of the King's Letters, or the Sheriffs, Stewards, Barronies, or Bailiffs Precept, to ſummond onie Party: And if they cannot apprehend them perſonally, they ſhall paſs to the Zett or Dure of the principal dwelling Place, where the Perſon to be ſummoned dwells, and has there actual Reſidence for the Time, and there ſall deſire to have Entreſs; quhilk gif it be granted, they ſall firſt ſchaw the Cauſe of their cuming; and gif they cannot get the Partie perſonally, they ſall ſchaw their Letters or Precept before the Servandes of the Houſe, or other famous Witneſs; and ſall execute their Offices and Charge; and thereafter ſall offer the Copie of the ſaidis Letters, or Precept, to ony of the Servandes; quhilk gif they refuſe to do, that they affix the ſamin upon the Zet or Dure of the Perſons ſummound; and ſik-like gif they get no Entreſs, they firſt knock, and at the Dure Sex Knockes, they ſall execute their Office before famous Witneſs, at the ſaid Houſe and dwelling Place, and affix the Copy upon the Zet or Dure thereof, as ſaid is; quhilk ſall be leiful and ſufficient Summounding, and delivering of the Copie; and the Partie, nor Officiar, ſall not be halden to give any uther Copie, but at their awin Pleaſure; and everie Officiar in his Indorſation ſall make mention of his awin Execution in manner foreſaid: And the Partie at quhais Inſtance the Letter, or Precept, is direct, ſall pay to the Officiar, Executour, the Expences of the Copie affixed, as ſaid is; and ſall be taxed, and given again to him at the giving of the Decreet or Sentence, gif he happenis to obtaine: and gif the Officiar beis foundin culpable in the Execution of his Office, he ſall be put in our Sove-

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reign Lordis Priſon, and puniſhed in his Perſon and Gudes, at the King's Grace Will.

12th Act, 1693.

Act concerning Citations to the Firſt and Second Dyet.

THEIR Majeſties, with Advice and Conſent of the Eſtates of Parliament, for the greater Diſpatch and Facilitating of Proceſſes, do hereby reſcind that Clauſe in the Act of Parliament 1672. intituled, *Act diſcharging Second Summons*, which requires the Second Citation to be given after the elapſing of the firſt Dyet of Compearance: And declare, That in all Time coming it ſhall be lawful to give Citation for the Firſt and Second Dyet of Compearance, at one and the ſame Time, providing the ſame be done by a Meſſenger at Arms, as was the Uſe of Summons for the Second Dyet: And further, it is hereby expreſsly provided, that all Copies of Summons, Charges, Inhibitions, Arreſtments, or other Letters whatſoever, given to the Party, ſhall bear at Length, and not in Figures, the Day and Date of the Delivery thereof; as alſo the Names and Deſignations of the Witneſſes, in ſuch ſort as the Execution and Indorſation did, and doth bear the ſame; certifying the Meſſenger who ſhall omit to inſert the ſaid Day and Date, and Witneſſes, in his Copy, that he ſhall incur Deprivation and Tinſel of his Office.

No. II.

Extract Proceedings of the General Aſſemblies 1749 *and* 1750, *anent the Augmentation of Miniſters Stipends.*

At Edinburgh, Monday *the Fifteenth Day of* May *One thouſand Seven hundred and Forty-nine Years.*

THE which Day the General Aſſembly of the Church of *Scotland* having had tranſmitted to them, from their Committee for Overtures, an Overture with relation to the Reaſonableneſs and Neceſſity of an Augmentation of the Generality of the Miniſters Stipends in this Church, the ſame was twice read over; the Tenor

Tenor whereof follows: " *Edinburgh*, *May* the Thirteenth, One " thouſand Seven hundred and Forty-nine, the Committee of O- " vertures had laid before them Inſtructions from Five Synods, " and Twenty-five Preſbyteries, to the Commiſſioners from their " ſeveral Bounds, to inſiſt at this Aſſembly for the Neceſſity of an " Augmentation of Stipends in *Scotland*; and for the Aſſembly's " applying to the Legiſlature for that Purpoſe; together with an " Overture from a Sixth Synod, that the Aſſembly ſhould give " that Attention to this Affair, that a Matter of ſo great Import- " ance and Delicacy challenges: And if ony probable Meaſure " can be fallen upon, that may anſwer this End, that the greateſt " Unanimity ſhould be ſtudied in following it: Which being con- " ſidered by the Committee, they did unanimouſly agree, that an " Augmentation of the Generality of Miniſters Stipends in this " Church was highly reaſonable and neceſſary; and by a very " great Majority do give it as their Opinion, that the Aſſembly " ſhould take this Matter under Conſideration, at their Diet on " *Monday* next; and ſhould reſolve on an humble Application to " the King and Parliament for the Purpoſe above-mentioned." The General Aſſembly agreed to delay Conſideration thereof until *Wedneſday* next; and reſolved to meet at Nine o'Clock in the Morning; and, previous to any other Buſineſs, to proceed to conſider the ſaid Overture: And it is now ordered, that all the Inſtructions or Overtures from Synods or Preſbyteries, be lodged in the Clerk's Hands, 'twixt and that time.

At *Edinburgh*, *Wedneſday* the Seventeenth Day of *May* One thouſand Seven hundred and Forty-nine Years: The General Aſſembly, purſuant to their Reſolution on *Monday* laſt, proceeded to the Conſideration of the Overture reſpecting the Augmentation of Stipends of the Miniſters of this Church; and having cauſed the foreſaid Overture to be again this Day read, the Aſſembly, after long Reaſoning thereupon, agreed to appoint a Committee to take that Matter under Conſideration; and to report what ſhall, upon proper Inquiry, appear to them, to the next General Aſſembly, in order to their making Application to Parliament for an Augmentation of Stipends, or providing ſuch other Remedy as to them ſhall ſeem meet; and appoints the following Perſons; *viz*, Meſſieurs *Andrew Dickſon*, *Robert Hamilton*, *Alexander MacLagan*, *Robert Dalgliſh*, *Alexander Webſter*, and *John Scott*, Miniſters; the Earl of *Marchmont*, Lord Preſident, Lord *Drumore*, Lord *Shewalton*, Mr. *Robert Dundaſs*, and Baillie *Forreſt*, Ruling Elders; to prepare a Draught of the Inſtructions to be given to the ſaid

Committee, and bring in the ſame to the Aſſembly on *Friday* Morning; and appoints them to meet To-morrow at half an Hour after Nine in the Morning, in the Laigh Council-Houſe.

At *Edinburgh*, *Friday* the Nineteenth Day of *May* One thouſand Seven hundred and Forty-nine Years: The Committee named upon *Wedneſday* laſt to draw up the Inſtructions to be given to the Committee then reſolved to be appointed for having under Conſideration what concerns the Augmentation of Miniſters Stipends, brought in their Report: Which being firſt read all over, and then Paragraph by Paragraph, the ſame was, after ſome Amendments, approved of by the Aſſembly, as follows; *viz.* the Committee is hereby inſtructed, *Primo*, To get an Account of the juſt Value of all the Stipends in *Scotland*; by how many Heretors they are paid; what Part of them in Money, what in Victual, tegether with the Extent of their Glebes. *Secundo*, They are impowered to inquire into the true Extent and State of the Tythes. *Tertio*, They are inſtructed to inquire into all other Funds that may be applied, either with or without Authority of Parliament, for augmenting of Stipends. *Quarto*, They are further authorized to addreſs Perſons in Power, Members of Parliament, the Nobility and Gentry of the Landed-Intereſt in *Scotland*, for their Countenance and Aſſiſtance, for promoting the Relief of Miniſters that are not ſufficiently provided. *Quinto*, The Committee are warranted by the Aſſembly to call from the Church's Funds for what Money may be found neceſſary, for preparing this Matter for the next General Aſſembly. *Sexto*, The Commiſſion are hereby appointed to give their Advice and Aſſiſtance to the Committee, ſo often as they ſhould find it neceſſary to aſk the ſame. *Septimo*, The ſeveral Preſbyteries are to ſignify to the Committee, as ſoon as poſſible, their Opinion concerning the ſeveral Particulars aforeſaid. *Octavo*, Preſbyteries and Miniſters are appointed to give to the Committee ſuch Information with regard to the above Particulars, or ſuch other Facts or Things, as the Committee ſhall find neceſſary, and ſhall require; and that, upon ſuch Requiſition made to the Moderator, he is hereby appointed to call a Meeting of his Preſbytery, *pro re nata*. *Laſtly*, the Committee ſhall, after full Inquiry, prepare a Plan of the whole projected Augmentation, and lay the ſame before the next General Aſſembly: And it is appointed, that there be Five ſtated Meetings of the ſaid Committee in the Truſtees Hall, for the Widows Scheme, at Ten o'Clock Forenoon; the firſt Meeting upon *Tueſday* next; other Three on the *Tueſdays* immediately before each of the other Quarterly Meetings

ings of the Commiſſion, in *Auguſt*, *November*, and *March*; and the laſt on the *Tueſday* immediately before the Meeting of the next General Aſſembly: And they are hereby impowered to adjourn themſelves to ſuch other Times and Places as they ſhall think proper: The Moderator of this Aſſembly ſhall be Moderator of the ſaid Committee; and the Clerks are appointed to attend the Committee at their ſeveral Diets: And in caſe of their Abſence, the Committee are hereby impowered to chooſe their own *Præſes* and Clerk.

And the General Aſſembly appointed the following Perſons to be the ſaid Committee; *viz.* Mr. *Patrick Cuming*, one of the Miniſters of *Edinburgh*, their Moderator; Maſters *Thomas Pitcairn* at *Weſt Kirk*, *James Stevenſon*, *George Wiſhart*, and *Alexander Webſter*, at *Edinburgh*, *Alexander Bryce* at *Kirknewtoun*, *Robert Dalgleiſh* at *Linlithgow*, *Henry Lundie* at *Abercorn*, *George Ellis* at *Carridden*, *John Buchanan* at *Covingtoun*, *John Hay* at *Peebles*, *Alexander Robertſon* at *Eddleſton*, *Thomas Turnbul* at *Borthwick*, *William Carlyle* at *Preſtonpans*, *Andrew Dickſon* at *Aberlady*, *Edward Steedman* at *Haddingtoun*, *George Buchanan* at *Tyningham*, *Robert Monteith* at *Longformacus*, *Andrew Chatto* at *Marbottle*, *John Bell* at *Gordon*, *Walter Stewart* at *Aſh Kirk*, *Gabriel Gulan* at *Dryſdale*, *John Scott* at *Dumfrees*, *George Duncan* at *Lochrutton*, *William Cuningham* at *Duriſdeer*, *Thomas Mutter* at *Leſſwalt*, *Robert Finlay* at *Inch*, *George Reid* at *St. Evox*, *William Steel* at *Sorne*, *William Allan* at *Barr*, *Patrick Wodrow* at *Torboltoun*, *Robert Baird* at *Dunlop*, *Robert Hamilton* and *James Millar* at *Hamilton*, *William Hamilton* at *Douglas*, *Niel Campbell*, Principal of the Univerſity of *Glaſgow*, *William Craig* at *Glaſgow*, *William Leechman*, Profeſſor of Divinity in the Univerſity of *Glaſgow*, *John Allan* at *Row*, *Dougald Allan* at *Innerhaulen*, *Duncan Macfarlane* at *Drymen*, *Patrick Campbell* at *Inverary*, *Alexander MacLaggan* at *Little Dunkeld*, *James Biſhop* at *Kincleaven*, *James Lindſay* at *Dumbarnie*, *James Thomſon* at *Dumfermline*, *Daniel MacQueen* at *Stirling*, *Robert Spears* at *Burntiſland*, *John Hill* at *St. Andrews*, *Robert Trail* at *Kettins*, *Thomas Randal* at *Inchſture*, *David Blair* at *Brichen*, *Robert Pollock*, Profeſſor of Divinity in the Marſhal College of *Aberdeen*, *Theodore Gordon* at *Kinnethmont*, *George Grant* at *Boharm*, *Alexander Irvine* at *Elgin*, *Robert Dunbar* at *Dyke*, Miniſters; the Right Honourable *Alexander* Earl of *Levin*; *Hugh* Earl of *Marchmont*; *Robert Dundaſs* of *Arniſton*, Lord Preſident of the Court of Seſſion; *William Grant* of *Preſtongrange*, Lord Advocate of *Scotland*; *Charles Erskine* of *Tinwald*, Lord Juſtice Clerk; *Hugh Dalrymple*

rymple of *Drumore*, *Alexander Fraſer* of *Strichen*, and *Patrick Boyle* of *Shewalton*, Three of the Senators of the College of Juſtice; *John Maul* of *Inverkeillor*, One of the Barons of his Majeſty's Court of Exchequer; *Robert Dundaſs* younger of *Arniſton*, Eſquire; *Alexander Hume* of *Eccles*, One of his Majeſty's Sollicitors; *Alexander Hamilton* of *Pencaitland*, Eſquire; *Archibald MacAulay*, Eſquire, Lord Provoſt of *Edinburgh*; *Hugh Hathorn* and *John Forreſt*, preſent Baillies of *Edinburgh*, Mr. *Robert Craigie* of *Glendoig*, Advocate; Mr. *David Dalrymple*, Procurator for the Church; *Colin Campbel* of *Kilbride*, Eſquire, One of the Commiſſioners of his Majeſty's Cuſtoms; Mr. *Robert Ramſay* of *Blackcraig*, Mr. *Andrew Pringle* Advocate, Mr. *Robert Dalrymple* Writer to the Signet, *William Wallace* of *Cairnhill*, *James White* of *Overſtockbridges*, *John Murdoch*, Eſquire, late Provoſt of *Glaſgow*, *Alexander MacMillan* Writer to the Signet, *James Dundaſs* of *Philpſtoun*, and *John Belches* of *Innermay*, Advocates, Ruling Elders. And the Aſſembly declares Seven of the above-named Members to be a *Quorum*. The Moderator, at the Deſire of the Aſſembly, gave Thanks, in their Name, to the Honourable Members, for the Aſſiſtance they had given in preparing the above Inſtructions; and deſired the Continuance of their good Offices in this important Affair.

At *Edinburgh*, *Saturday* the Twentieth Day of *May*, One thouſand Seven hundred and Forty-nine Years: Upon reading the Minutes of Yeſterday, the General Aſſembly appointed, that the Inſtructions agreed upon to be given to the Committee named to have under Conſideration what concerns the Augmentation of Miniſters Stipends, be forthwith printed; and Copies thereof tranſmitted to every Presbytery in this Church.

At *Edinburgh*, *Saturday* the Twelfth Day of *May* One thouſand Seven hundred and Fifty Years: The Committee appointed by the laſt General Aſſembly, to have under Conſideration what concerns the Augmentation of Miniſters Stipends, gave in their Report to this Aſſembly: And the General Aſſembly, having cauſed to be read the Appointment of the laſt Aſſembly on that Committee, did there-after order the foreſaid Report to be read all over: And the General Aſſembly, having heard the ſaid Report, reſolved to take the Matter under Conſideration upon *Monday* next in the Forenoon; and in the mean time ordered the ſaid Report to be printed; and Copies thereof given to Members.

At *Edinburgh*, *Monday* the 14th Day of *May*, 1750 Years, the General Aſſembly, purſuant to their Reſolution made on *Saturday* laſt,

laſt, proceeded to conſider what relates to the Augmentation of the Stipends of Miniſters: And having cauſed to be read over the Act of laſt General Aſſembly, appointing a Committee to have that Matter under Conſideration, with the particular Inſtructions given to that Committee, they cauſed alſo to be read again the Report of the ſaid Committee, brought in upon *Saturday* laſt: The Tenor whereof follows; *viz. Edinburgh, May* the 9th, 1750. To the Venerable Aſſembly of the Church of *Scotland*, to meet at *Edinburgh*, the 10th Day of *May*, 1750, the Report of the Committee appointed by the laſt General Aſſembly, to have under Conſideration what concerns the Augmentation of Miniſters Stipends. The Committee, according to the Inſtructions and Powers given them by the laſt General Aſſembly, ſent Letters to all the Presbyteries in *Scotland*, with proper Queries to the ſeveral Miniſters, relating to the Facts which the Committee were directed to inquire into; and ſuch other Things, as appeared to them of Conſequence, for anſwering the Aſſembly's Deſign: In which Letters they alſo deſired Presbyteries to apply to the Nobility and Gentry, within their Bounds, in the moſt proper and reſpectful Manner, in order to obtain their Concurrence in promoting any proper Plan that might be formed for the Relief of ſuch Miniſters as are not ſufficiently provided. To aſſiſt them further in their Inquiry into the proper Facts, they procured from Mr. *Joſeph Williamſon*, Clerk to the Commiſſion of Teinds, an atteſted Abſtract of the Stipends of 343 Pariſhes, taken from the Records of that Court. By a Calculation of the neceſſary annual Expence of a Miniſter's Family, it appeared to the Committee, that Ten Chalders of Victual, Oatmeal, and Bear, or the Value of it in Money, according to the uſual Converſion in the Sale of Lands in the Parts of the Country where the reſpective Pariſhes lie, is no more than a moderate Proviſion for Miniſters all over *Scotland*: And therefore they give it as their Opinion, that the above-mentioned Quantity of Victual, or the Value of it in Money, according to the uſual Converſions in the ſeveral Parts of the Country, is reaſonable to be propoſed as the *Minimum* of Miniſters Stipends all over *Scotland*: that the propoſed Augmentation ſhould ariſe out of the Tythes, the Law having conſidered theſe as the proper Fund for Augmentations; and that where the Tythes are exhauſted, or where the Pariſhes are very ſmall, it ought to be conſidered how far, in ſuch Caſes, the augmenting of Stipends may be effectuated, by Annexations; and in the mean time ſome Funds, ſuch as the Biſhops Rents, *&c.* (for which an humble Application may be made to his Majeſty) might be applied for the Support of the preſent Incumbents, until ſuch Annexations take place. It being

being repreſented to the Committee, that the enlarging of the preſent Glebes would be of great Conſequence, and the moſt beneficial Method of augmenting Miniſters Stipends, at leaſt in Part, they propoſe, that in caſe of obtaining any Addition to the legal Glebes, a proportional Deduction ſhould be made from the Ten Chalders of Victual, or its Value: The Committee give it as their Opinion, that the things now propoſed, in order to the Augmentation of Miniſters Stipends, cannot be made effectual, without the Aid of an Act of Parliament; and ſubmit it to the Wiſdom of the General Aſſembly, if it may not be proper to apply to Parliament for that Purpoſe, the next Seſſion thereof, that ſhall be held after the Meeting of this Aſſembly. It being repreſented by the Synod of *Orknay*, and with reſpect to the Presbytery of *Zetland*, that the Victual in theſe Countries is far inferior in Value to what it is in neighbouring Shires, at the ſame time that the Rate of Living is equally high; the Committee do therefore give it as their Opinion, that the *Minimum* of Stipends in *Orknay* and *Zetland* ſhould be a Quantity of Victual equal in Value to Ten Chalders of Victual in the Shire of *Sutherland*, or the Value in Money of ſuch a Quantity of Victual: And it being repreſented, that in *Merſe* and *Teviotdale*, the Price of a Chalder of Victual, according to the uſual Converſion, is not equal to what it is in the *Lothians*, at the ſame time that Living is equally dear; therefore the Committee propoſes, that the *Minimum* of Stipends in *Merſe* and *Teviotdale* ſhould be Ten Chalders of Victual, or its Value, according to the uſual Converſion; together with as much Money, as to make up the Whole to 1000 *l. Scots*, or 83 *l.* 6 *s.* 8 *d. Sterling*. The Committee further propoſes, in order to leſſen the Expences of Proceſſes for Augmentations, that, inſtead of the preſent Way of ſummoning Heretors in theſe Caſes, the Charges of which are often very conſiderable, eſpecially in remote Places, the Method of ſiſting them might be ſummoning them at the Church-Door, by a Meſſenger, and the Miniſter's writing to non-reſiding Heretors; the laſt of which ſhould be inſtructed by a Certificate under the Miniſter's Hand, according to the preſent Practice, in the Caſe of repairing Churches and Manſes. The Committee, conſidering alſo the Hardſhips and Expence to which many Miniſters are ſubjected, from the dilatory Payment of their Stipends, are of Opinion, that it might be a conſiderable Remedy to the ſaid Grievance, if a Law was obtained, enacting, That in caſe the Stipend, or any Part of it, ſhall not be paid at the firſt Term of *Whitſunday*, or *Martinmas*, after it becomes payable, then it ſhall bear Intereſt from the Term of Payment. The Committee do further report, That in return to the Letters and

Queries

Queries ſent to the Presbyteries, they have received Reports concerning 780 Benefices, and other Facts reſpecting the Pariſhes theſe belong to; from which, together with the Account of 53 Stipends more contained in the atteſted Abſtract, from the Records of the Commiſſion of Teinds, they having cauſed inſert into a Book, which they had ordered to be prepared for that Purpoſe, a State of 833 Benefices, and other Facts relating to theſe, reduced to proper diſtinct Columns: And from the ſaid Scheme-book, the Committee have cauſed draw out an Abſtract of the principal Facts, which is herewith produced: From whence it appears, that of thoſe 833 Benefices, ſeparating what is allowed for Communion-Elements, there is one under 25 *l.* Sterling; Three above 25 *l.* and not higher than 30 *l.*; 12 above 30 *l.* and not higher than 35 *l.*; 25 above 35 *l.* and not higher than 40 *l.*; 106 above 40 *l.* and not higher than 45 *l.*; 126 above 45 *l.* and not higher than 50 *l.*; 84 above 50 *l.* and not higher than 55 *l.*; 119 above 55 *l.* and not higher than 60 *l.*; 94 above 60 *l.* and not higher than 65 *l.*; 119 above 65 *l.* and not higher than 70 *l.*; 38 above 70 *l.* and not higher than 75 *l.*; 27 above 75 *l.* and not higher than 80 *l.*; 22 above 80 *l.* and not higher than 85 *l.*; Seven above 85 *l.* and not higher than 90 *l.*; Nine above 90 *l.* and not higher than 95 *l.*; 12 above 95 *l.* and not higher than 100 *l.*; Three above 100 *l.* and not higher than 105 *l.*; Two above 105 *l.* and not higher than 110 *l.*; Eight above 110 *l.* and not higher than 115 *l.*; 16 of 138 *l.* 17 *s.* 9 *d.* $\frac{4}{8}$ of a Penny: And that the Total of theſe Benefices, deducing what is upon the Whole allowed for Communion-Elements, amounts to 50,266 *l.* 15 *s.* 5 *d.* $\frac{10}{12}$; and in theſe are included Stipends, that are not paid out of the Tythes: And it is to be obſerved, that 65 are under the preſent legal *Minimum* of 800 Merks, or 44 *l.* 8 *s.* 10 *d.* $\frac{2}{3}$ Sterling; and 182 have no Allowance for Communion-Elements. The Committee further report, that, with reſpect to Glebes and Graſs, they have only received Reports relating to 774 Benefices, whereof 62 have no Allowance either for Glebes or Graſs: 255 have Glebes, but no Graſs, or Allowance for it; and 457 have both Glebes and Graſs; but ſeverals are under the Legal, as appears more particularly from the Abſtract: And theſe Two Numbers, who have either Glebes or Graſs, amount to 712: And the total Value of their Glebes, including the Graſs, is computed, according to the Reports, to be, in all, 2855 *l.* 11 *s.* 8 *d.* It follows, that each is worth, at a Medium, 4 *l.* 2 *d.* $\frac{1}{12}$. And they further report, that by a Calculation formed upon the Account of the Tythes of 324 Pariſhes contained in the atteſted Abſtract before mentioned, it appears, that the Tythes in *Scotland*, not affected by Miniſters Stipends, will amount to near 60,000 *l.* Sterling:

ling: And tho' the State of the Tythes taken from that Abſtract, may not be quite accurate; yet theſe Inaccuracies will have but very ſmall Influence on the general Concluſion. Upon the Whole, the Plan of the projected Augmentations, which the Committee offer to the General Aſſembly, is, *Primo*, To have the *Minimum* of Stipends raiſed to what is above propoſed; that is to ſay, That the *Minimum* all over *Scotland* (except in *Orknay* and *Zetland*, and the Shires of *Merſe* and *Teviotdale*, where the Circumſtances are ſomewhat ſpecial) ſhall be Ten Chalders of Victual, or its Value, according to the uſual Converſions; that in *Orknay* and *Zetland* it ſhall be a Quantity of Victual equal in Value to Ten Chalders in the Shire of *Sutherland*, or the Value in Money of ſuch a Quantity of Victual; and that in *Merſe* and *Teviotdale*, it ſhall be Ten Chalders, or its Value in Money, together with as much Money as to make up the whole Stipend to 1000 *l.* Scots, or 83 *l.* 6 *s.* 8 *d.* Sterling. *Secundo*, That in caſe of obtaining any Addition to the legal Glebes, a proportional Deduction ſhall be made from the Ten Chalders of Victual, or its Value. *Tertio*, That in Proceſſes for Augmentations, the Law might direct the Method of citing Heritors to be, ſummoning them at the Church-Door, by a Meſſenger, and the Miniſter's Writing to non-reſiding Heretors: The laſt of which ſhall be inſtructed by a Certificate under the Miniſter's Hand. *Quarto*, That there may be a Law enacting, that in caſe the Stipend, or any Part of it, ſhall not be paid at the firſt Term of *Whitſunday*, or *Martinmas*, after it becomes payable, then it ſhall bear Intereſt from the Term of Payment. And the Queſtion being propoſed, and reaſoned upon, Whether or not the Committee ſhould move to the General Aſſembly, to make immediate Application to the Legiſlature for the Purpoſes above mentioned; the ſame being put to the Vote, it carried by a Majority in the Affirmative: And accordingly the Committee, conſidering the Reports they have got, in Anſwer to the Queries ſent to Presbyteries, which give them a clearer and fuller View of the Circumſtances of the Miniſters of this Church, and the Neceſſity of the propoſed Augmentation, give it as their Opinion to the General Aſſembly, That they ſhould make immediate Application to Parliament for the Purpoſes above ſet forth, the firſt Seſſion thereof, that ſhall be held after the Meeting of this Aſſembly: Whereupon Maſters *Alexander Webſter*, *James Stevenſon*, *James Lindſay*, and *George Wiſhart*, craved it might be marked, that they voted againſt this Opinion of the Committee, for an immediate Application. Signed in Name of the Committee, by *(Sic ſub.) Patrick Cuming*, Moderator, *George Wiſhart*, Cl. Eccl. Scot.

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The General Aſſembly, having heard the foreſaid Report, did, after very long Reaſoning upon the whole Affair, come to the following Reſolution; *viz.* The General Aſſembly did agree, without a Vote, to apply to Parliament at their next Seſſion, repreſenting the diſtreſſed Circumſtances of many Miniſters of this Church, by reaſon of the Smallneſs of their Stipends; and praying for ſuch Relief, as they in their Wiſdom ſhall think meet: And the Aſſembly appointed the Moderator; Principal *Campbell*; Maſters *Patrick Cuming*, *Alexander M'Lagan*, *William Steel* at *Dalſerf*, *William Steel* at *Sorn*, *Robert Wallace*, and *James Lindſay*, Miniſters; the Marquis of *Lothian*, the Lord Preſident, Lord Advocate, Lord Juſtice Clerk, Lord *Drumore*, Lord *Shewalton*, Mr. *Robert Dundas*, and Mr. *David Dalrymple*, Ruling Elders; as a Committee to prepare a Plan of the Method in which this Affair is to be conducted, and report to the Aſſembly on *Thurſday* next; and appointed them to meet for that Purpoſe To-morrow, at Five o'Clock of the Evening, in the Laigh Council-houſe.

At *Edinburgh*, *Thurſday* the Seventeenth Day of *May* One thouſand Seven hundred and Fifty Years: The Committee appointed on *Monday* laſt to prepare a Plan of the Method in which the Application to Parliament, then reſolved upon, ſhould be conducted, brought in their Report; which was read, and is as follows; *viz.* The Committee are of Opinion, That in raiſing of Summonſes for Modification, Locality, or Augmentation of Stipends, inſtead of the uſual Method of Summoning by a Meſſenger, it ſhall be ſufficient, that a general Citation be made by every Pariſh-Clerk from the Desk, upon a Lord's-day, immediately after Divine Service, in the Forenoon: And that Letters be wrote by the Moderator of the Presbytery to the abſent Heretors; except ſuch as are forth of the Kingdom, who are to be ſummoned by a Meſſenger at the Mercat-Croſs of *Edinburgh*, Pier and Shore of *Leith*: That it ſhall be in the Power of the Moderator, with Conſent of the Presbytery, to purſue for Modification, Locality, or Augmentation, whether there be a Miniſter ſettled in the Pariſh, or the Pariſh be vacant: That Miniſters Stipends, if not paid within the Year, ſhall bear Intereſt from the Firſt Half-year after they become due: That Power be given to the Commiſſion of Teinds, to ſuppreſs Pariſhes which they find not proper to be continued ſeparate Pariſhes, and to annex them to One or more of the adjacent Pariſhes: That the Commiſſion have likewiſe a Power to alter the Diviſions of Pariſhes, on a View to divide them as they ſee Cauſe. The Queſtion being put, Approve of what is above propoſed, or Not? it carried

by a Majority, Approve: Whereupon Mr. *William Steel* at *Dalserf* craved it might be marked, that he did not Approve. This Committee, by a Majority of Votes, further overture to the General Assembly, That in the Application to Parliament there be no Proposals made as to any Alteration of the *Minimum* of Stipend.

The Assembly then proceeded to consider the several Particulars of the above Report: And it being agreed, without a Vote, to approve of all of them, except the last Article; *viz.* That in the Application to Parliament there should be no Proposals made as to any Alteration of the *Minimum* of Stipend; it was proposed, That the same should be left out; and that in place of it there should be the following Clause; *viz.* Most humbly to pray for Relief in the Premises, and such further Relief as to his Majesty, and the Two Houses of Parliament, shall, in their great Wisdom, seem meet: After Reasoning, the Question was put, Approve of the last Article in the Committee's Report, or Not? it being understood, that if it carried, Not, the Clause above mentioned should be insert in place of the Article not approved of; and, the Rolls being called and Votes marked, it carried by a great Majority, Not; and accordingly the Assembly's Resolution with a Preamble, which was proposed, and agreed upon, is as follows;

The General Assembly, considering the distressed Circumstances of many Ministers of this Church, arising from the Smallness of their Stipends, the Expence of Processes for Augmentations, and the dilatory Payment of Stipends, do resolve on an humble Application to be made to the King and Parliament, for the following Purposes: That in raising of Summonses for Modification, Locality, or Augmentation of Stipends, instead of the usual Method of Summoning by a Messenger, it shall be sufficient, that a general Citation be made by every Parish-Clerk from his Desk, upon a Lord's-day, immediately after Divine Service in the Forenoon; and that Letters be wrote by the Moderator of the Presbytery to the absent Heritors; except such as are forth of the Kingdom, who are to be summoned by a Messenger at the Mercat-Cross of *Edinburgh*, Pier and Shore of *Leith*: That it shall be in the Power of the Moderator, with Consent of the Presbytery, to pursue for Modification, Locality, or Augmentation, whether there be a Minister settled in the Parish, or the Parish be vacant: That Ministers Stipends, if not paid within the Year, shall bear Interest from the First Half Year after they become due: That Power be given to the Commission of Teinds to suppress Parishes which they find not proper to be continued separate Parishes, and to annex them to One or more of the adjacent Parishes: That the Com-

Commiſſion have likewiſe a Power to alter the Diviſions of Pariſhes, on a View to divide them as they ſee Cauſe.

The General Aſſembly inſtructs thoſe to be commiſſioned by them, moſt humbly to pray for Relief in the Premiſes, and for ſuch further Relief as to his Majeſty, and the Two Houſes of Parliament, ſhall, in their great Wiſdom, ſeem meet. And it was declared, by the Moderator, from the Chair, to be the Mind of the Aſſembly, That by this laſt Clauſe it was underſtood, that the Commiſſioners to Parliament might apply for an Increaſe of the *Minimum*. From the foreſaid Reſolution or Determination of the Aſſembly, rejecting the laſt Article of the Committee's Report, and admitting of the above mentioned Clauſe in place thereof, the Right Honourable the Lord *Napier*, for himſelf, and in Name of all who ſhould adhere to him, entered his Diſſent, craving he might be allowed to give in the Reaſons thereof in due time, and thereupon took Inſtrument: To which Diſſent the following Members adhered, and alſo took Inſtrument; *viz.* The Right Honourable the Lord Juſtice Clerk, the Lord Advocate, the Lord Preſident, Lord *Shewalton*, Mr. *James Erskine*, Mr. *George Sinclair* of *Ulbſter*, Mr. *Gilbert Elliot*, Mr. *James Ker* of *Moriſon*, Mr. *John Stewart*, Mr. *William Kilpatrick*, Mr. *James Dundas*, Mr. *Alexander Hamilton* of *Pencaitland*, Sir *George Preſton* of *Valleyfield*, Mr. *Archibald Campbel* of *Knockbowie*, Mr. *James Carnegie* of *Finhaven*, and Mr. *William Binning*.

The Aſſembly then reſolved, without a Vote, to ſend Three Miniſters, and One Elder, as their Commiſſioners, to apply, in their Name, to the King and Parliament for the Purpoſes abovementioned; *viz.* The Reverend Mr. *Robert Patoun*, Moderator of this Aſſembly, Mr. *Patrick Cuming*, Profeſſor of Church-Hiſtory, and one of the Miniſters of *Edinburgh*, Mr. *William Steel*, Miniſter at *Sorn*, Mr. *David Dalrymple*, Advocate and Procurator for the Church: And they further recommended to Mr. *William Steel*, Miniſter at *Dalſerf*, to go along with the ſaid Commiſſioners, and give them his Aſſiſtance.

At *Edinburgh*, *Friday* the Eighteenth Day of *May* One thouſand Seven hundred and Fifty Years: Upon reading the Minutes of Yeſterday, *George Peter* of *Chappel* craved it might be marked, That he now adheres to the Diſſent then entered by the Lord *Napier*, and others, againſt the Reſolution of the Aſſembly.

The General Aſſembly, judging it proper, That a Committee be appointed to correſpond with the Commiſſioners named Yeſterday to go to *London*, and to give them Advice and Direction upon any Events that may happen, did nominate for that Purpoſe, Profeſſor

feſſor *Gowdie*, Maſters *Alexander M'Lagan* at *Little Dunkeld*, *Andrew Dickſon* at *Aberlady*, *Robert Baird* at *Dunlop*, *John Allan* at *Row*, Profeſſor *Pollock*, *Theodore Gordon* at *Kennethmont*, *Alexander Geddes* at *Birſay*, *William Craig* at *Glaſgow*, *Robert Thomſon* at *Killean*, *Robert Monteith* at *Long Formacus*, *Duncan Meſſerlane* at *Drymen*, *James Buchan* at *Walls*, *John Squyre* at *Forreſs*, *William Somerville* at *Hawick*, *James Allan* at *Eyemouth*, *James Naſmith* at *Dalmenie*, *Peter Grant* at *Urray*, Profeſſor *Shaw*, *Robert Dalgleiſh* at *Linlithgow*, *William Thorn* at *Govan*, *Colin Campbell* at *Eggleſhorn*, *John Pinkerton* at *Dalziel*, *Thomas Mutter* at *Leſſwalt*, *Nathaniel M'Kie* at *Croſsmichael*, *James Lorimer* at *Mouſwald*, *Alexander M'Kay* at *Dunoon*, *Henry Spence* at *Weems*, Miniſters; Lord *Drumore*, Lord Provoſt of *Edinburgh*, the Maſter of *Roſs*, Sollicitor *Haldane*, Mr. *Joſeph Williamſon*, Mr. *Robert Dalrymple*, Dean of Guild *Montgomery*, *William Kier*, Mr. *White* of *Stockbriggs*, Commiſſioner *Campbell*, Mr. *Andrew Pringle*, Mr. *Campbell* of *Lochlands*, Mr. *Melvill* of *Kirkmichael*, Mr. *Alexander M'Millan*, and Mr. *Archibald Campbel*, Ruling Elders, Five whereof to be a Quorum: And appointed thoſe of the ſaid Committee, who reſide in or near the City of *Edinburgh*, to correſpond with thoſe at a Diſtance, that they may thereby be better enabled to give Advice to the ſaid Commiſſioners; and the Aſſembly appoint theſe Commiſſioners to direct their Letters of Correſpondence to Profeſſor *Gowdie*, who is hereby appointed to call a Meeting of the ſaid Committee as often as Occaſion ſhall require.

At *Edinburgh*, *Monday* the Twenty-firſt Day of *May* One thouſand Seven hundred and Fifty Years, The Commiſſioners named by this Aſſembly on *Thurſday* laſt, to make Application to the King and Parliament, in conſequence of the Inſtructions then given them, are hereby appointed to have their neceſſary Charges and Depurſements defrayed out of the publick Funds of the Church, as is uſual in the like Caſes: And are further authorized to call for all authentick Papers and Reports, upon the Subject of the Augmentation, which have been laid before the Committee of the laſt Aſſembly, or which may after this be tranſmitted into the Clerk's Hands: And the Aſſembly appoints the Committee formerly named by them for correſponding with the Commiſſioners, to reviſe ſuch Reports from Miniſters, relating to their Stipends and Pariſhes, as have come up ſince the preparing of the Abſtract produced by the Committee of the laſt Aſſembly, and to ſee the ſame inſert and juſtly ſtated in the Scheme-Book; and Mr. *Matthew Stewart*, Profeſſor of Mathematicks in the Univerſity of *Edinburgh*, is added to the ſaid Committee of Correſpondents. The Aſſembly

further

further appoints the ſeveral Preſbyteries, to whom the Brethren who are appointed Commiſſioners do belong, to ſupply their Charges during their Abſence: And all Preſbyteries are ordered to addreſs Noblemen and Gentlemen within their Bounds in the moſt reſpectful manner, for their Countenance and Concurrence in promoting the Succeſs of this Application.

Eodem Die poſt Meridiem. There being preſented to the Aſſembly a Paper, intituled, *Reaſons of Diſſent, entered by Lord* Napier, *and adhered to by ſeveral others, againſt the Reſolution of the Aſſembly, appointing an Application to be made to Parliament concerning the Scheme for augmenting the Stipends of the Miniſters of the Church of* Scotland; Mr. *Robert Dundaſs* and Commiſſary *Leſsly* craved it might be marked, That they joined the ſaid Diſſent: And thereupon they took Inſtruments. The ſaid Reaſons of Diſſent being read, the Aſſembly ordered the ſame to lie *in retentis*; and nominated the Moderator, Profeſſor *Cuming*, Maſters *Alexander M'Lagan*, *William Steel* at *Sorn*, Profeſſor *Shaw*, Profeſſor *Pollock*, *Robert Baird*, *John Allan*, Miniſters; Mr. *Andrew Pringle*, Mr. *Joſeph Williamſon*, Mr. *Campbel* of *Lochland*, Lord *Drumore*, and the Procurator, Ruling Elders, as a Committee to draw Anſwers to the ſaid Reaſons of Diſſent; which are alſo appointed to be kept *in retentis*.

Extracted upon This and the Twenty-nine preceding Pages, by

George Wiſhart, Cl. Eccl. Scot.

At *Edinburgh*, the Eleventh Day of *December* One thouſand Seven hundred and Fifty Years, the above Extract, conſiſting of This and the Twenty-nine preceding Pages, was collated with the principal Records, by

Dav. Dalrymple.

No. III.

LIST of 75 Stipends of Miniſters in Scotland, *being all that are ſtated in the Scheme-Book made out by the Committee of the General Aſſembly, as below* 44 l. 8 s. 10 d. Sterling:----*And Notes of Facts relative to them, as appearing from the Miniſters own Accounts, or from Record.*

1. SPEYMOUTH, ſtated 37 *l.* 5 *s.* 10 *d.* is truly 73 *l.* 4 *s.* 8 *d.* according to the Miniſter's own Account, and the Decree on Record, *Anno* 1730. to which he refers.

2. *Carmyly*, ſtated 36 *l.* 6 *s.* 7 *d.* is truly 54 *l.* 2 *s.* 8 *d.* according to the Miniſter's own Account, and as ſettled at the full Tythe of the Pariſh by Decree, *Anno* 1715.

3. *Clachandyſert*, ſtated 41 *l.* 3 *s.* 4 *d.* is truly 50 *l.* 1 *s.* 1 *d.* according to the Miniſter's own Account, and as ſettled by Decree, *Anno* 1735.

4. *Culſalmond*, ſtated 30 *l.* 11 *s.* 1 *d.* is truly 47 *l.* 4 *s.* 6 *d.* according to the Miniſter's own Account, and as ſettled by Decree, *Anno* 1742.

5. *Crunond*, ſtated 43 *l.* 10 *s.* 6 *d.* is truly 46 *l.* 10 *s.* 6 *d.* for Stipend according to the Miniſter's own Account: And he ſays, it is generally reckoned to be ſo; tho' ſometimes leſs.

6. *Dalziel*, ſtated 43 *l.* 2 *s.* 8 *d.* is truly 45 *l.* 2 *s.* 8 *d.* for Stipend, and Elements to the Communion, according to the Miniſter's Account, and as ſettled at full Tythe of the Pariſh, by Decree, in *Anno* 1732.

7. *Tullineſtle*, ſtated 40 *l.* 1 *s.* 9 *d.* is truly 44 *l.* 8 *s.* 10 *l.* at leaſt, according to the Miniſter's own Account; and he has the full Tythe of the Pariſh, by his Decree in *Anno* 1729.

8. *Muckhart*, ſtated 42 *l.* 8 *s.* 10 *d.* is truly 44 *l.* 8 *s.* 10 *d.* for Stipend and Elements, by the Miniſter's own Account, and as ſettled by Decree, in *Anno* 1726, founded upon an Agreement between the Heretors, the Preſbytery, and the Miniſter.

9. *Methlick*, ſtated 43 *l.* 19 *s.* 6 *d.* is truly 44 *l.* 10 *s.* 3 *d.* according to the Miniſter's own Account, and as ſettled by Decrees in *Anno* 1648, and 1673. And Miniſter ſays, That he knows of no Fund in his Pariſh for Augmentation.

10. *Kil-*

10. *Kilchrenan* and *Dalavaich*, ſtated 44 *l.* 6 *s.* 1 *d.* is truly 45 *l.* 1 *s.* 1 *d.* according to the Miniſter's own Account. Two Pariſhes united.

11. *Balwhidder*, ſtated 42 *l.* 13 *s.* 4 *d.* is truly 50 *l.* according to the Miniſter's own Account of the Settlement of it by Decree, in *Anno* 1668; tho' he ſays, That ſome of the Heretors could never be brought to pay conform to it.

12. *Edderton*, ſtated 43 *l.* 15 *s.* is truly 47 *l.* 4 *s.* 6 *d.* according to Record of the Decree, in *Anno* 1725, and appears thereby to be the full Tythe of the Pariſh.

13. *Kildonan*, ſtated 41 *l.* 1 *s.* 3 *d.* is truly 44 *l.* 8 *s.* 10 *d.* as ſettled by Decree, in *Anno* 1728, at the full Tythe of the Pariſh.

14. *Firth* and *Stennis*, ſtated 43 *l.* 8 *s.* 11 *d.* but according to Decree, in *Anno* 1726, and Eſtimation therein put upon the ſmall Tythes, Stipend is 44 *l.* 17 *s.* 10 *d.* Two Pariſhes united, and lying in *Orkney*.

15. *Coll*, 27 *l.* 15 *s.* 6 *d.* The Incumbent is only an Aſſiſtant to the Miniſter of *Terree*, who has 50 *l.* Stipend, over and above what he gives his Aſſiſtant: And Miniſter ſays, There is no Tythe unexhauſted by his Stipend, except a ſmall Matter which the Synod of *Argyle* gets.

16. *Walls*, *Sandneſs*, &c. in *Zetland*, ſtated 38 *l.* 17 *s.* 9 *d.* but Stipend conſiſting of Tythes drawn by the Miniſter: He owns, That for Seven Years paſt they yielded him 44 *l.* 8 *s.* 10 *d. per Ann.* tho', he ſays, by reaſon of Charges in collecting bad Debts, Loſſes by Privateers, and Shipwrecks in ſending them abroad, *&c.* he computes the annual Value at no more than 38 *l.* 17 *s.* 9 *d.* effective Money.

17. *Leſſudden*, alias *St. Boſwell's*, ſtated 43 *l.* 19 *s.* 10 *d.* If Grain was turned into Money, at ſame Rates as in other neighbouring Pariſhes, it is 45 *l.* 6 *s.* But Miniſter ſays, His Grain is remarkably bad, and of low Value.

18. *Leſly*, ſtated 42 *l.* 5 *s.* but is 44 *l.* 8 *s.* 10 *d.* according to the Miniſter's own Eſtimation; and, as he ſays, it was ſettled by Decree, in *Anno* 1686, at full Tythe of the Pariſh.

19. *Ruthven*, 24 *l.* 10 *s.* Compoſed of Grain computed at an eaſy Rate; and the Amount, as ſtated by the Miniſter himſelf, of the ſmall Tythes, which he draws in Kind. And is the full Tythe of the Pariſh (which belong'd to one Man) according to the Miniſter's own Account of the Settlement thereof, by Decree, in *Anno* 1634. He has a Glebe which would lett at 5 *l.*

20. *In-*

20. *Inverury*, 38 *l.* 6 *s.* 8 *d.* as ſettled by Decree, in *Anno* 1635, according to the Miniſter's Account.

21. *Boyndie*, 39 *l.* 7 *s.* 6 *d.* This is beſide the ſmall Tythes, to which the Miniſter is intitled by his Decree, in *Anno* 1635, and which he owns he draws; but does not tell their Value.

22. *Roberton*, 41 *l.* 13 *s.* 6 *d.* ſettled by Decree, in *Anno* 1643, at full Tythe of the Pariſh.

23. *Clatt*, 42 *l.* 7 *s.* 2 *d.* ſettled by Agreement in *Anno* 1650, upon which Hornings have proceeded. It is a Pariſh belonging to three Heretors.

24. *Oyne*, 44 *l.* 8 *s.* 7 *d.* A Pariſh belonging to Four Heretors, ſettled by Decree, in *Anno* 1650.

25. *Leochill*, 33 *l.* 7 *s.* 3 *d.* This as ſettled by Decree, in *Anno* 1666. But Miniſter ſays, He has 2 *l.* 15 *s.* 7 *d.* more from the Tenants of a Part of a neighbouring Pariſh, now under his Charge. It is a Pariſh belonging to Two Heretors.

26. *Kinkell*, 44 *l.* 5 *s.* 10 *d.* A Pariſh belonging to Four Heretors, ſettled by Decree, in *Anno* 1676. And the Tythes belong to the Principal of *St. Leonard*'s College in the Univerſity of *St. Andrew*'s.

27. *Cuſhney*, 34 *l.* ſettled by Decree, in *Anno* 1678. It is a Pariſh belonging to Three Heretors.

28. *Arrochar* and *Tarbatt*, 30 *l.* 11 *s.* 1 *d.* ſettled by Decree, in *Anno* 1689. Two Pariſhes united. The Property of Two Heretors.

29. *Walls* and *Flotta*, ſtated 37 *l.* 18 *s.* 10 *d.* but truly 44 *l.* 6 *s.* 8 *d.* by the Miniſter's own Account; and as ſet forth by him to be ſettled by Decree, in *Anno* 1702. It is a Pariſh conſiſting of Two of the *Orkney-Iſlands*.

30. *Cults*, 40 *l.* 16 *s.* 8 *d.* ſettled by Decree, in *Anno* 1710. The Tythes belong to the Provoſt of the old College of *St. Andrew*'s, as Parſon (the Miniſter being only as Vicar) and a very ſmall Proviſion left to him.

31. *Auchtertool*, 41 *l.* 18 *s.* 4 *d.* ſettled by Decree, in *Anno* 1710, at full Tythe of the Pariſh, which belongs to Two Heretors.

32. *Cranſhaws*, 36 *l.* 19 *s.* 5 *d.* ſettled by Decree, in *Anno* 1710, at full Tythe of the Pariſh, belonging to Four Heretors.

33. *Birnay*, 36 *l.* 15 *s.* 3 *d.* ſettled by Decree, in *Anno* 1712, and is full Tythe of the Pariſh, and 2 *l.* 14 *s.* 8 *d.* of Biſhop Rents beſides.

34. *Dor-*

34. *Dornock*, 42 *l.* 4 *s.* 5 *d.* ſettled by Decree, in *Anno* 1712.: And Miniſter ſays, That there is no Fund for Augmentation in the Pariſh.

35. *Calbrach*, 33 *l.* 6 *s.* 8 *d.* ſettled by Agreement in *Anno* 1713, between the Miniſter and the Heretors; who are but Three in Number.

36. *Longbride*, 41 *l.* 11 *s.* 2 *d.* ſettled by Decree, in *Anno* 1717, at full Tythe of the Pariſh; which is the Property of Three Heretors.

37. *Guthrie*, 34 *l.* 16 *s.* 4 *d.* ſettled by Decree, in *Anno* 1722, at 37 *l.* 4 *s.* 11 *d.* for Stipend and Elements. It is a Pariſh belonging to Three Heretors.

38. *Forbes* and *Kearn*, 40 *l.* 1 *s.* ſettled by Decree, in *Anno* 1722, at full Tythe of Two Pariſhes then united.

39. *Uig*, 42 *l.* 8 *s.* 10 *d.*
40. *Locks*, 43 *l.* 6 *s.* 3 *d.*
41. *Barvas*, 43 *l.* 6 *s.* 3 *d.*

} Theſe Three and a Fourth Pariſh, with a Stipend of 53 *l.* were erected out of Two old Pariſhes in the Iſle of *Lewis* by Decree, in *Anno* 1722, and the full Tythe given to make up the Four Stipends.

42. *Strath*, 43 *l.* 17 *s.* 9 *d.* This, and Five other Pariſhes (with Stipends above 44 *l.* 8 *s.* 10 *d.*) were erected out of two old Pariſhes in the Iſland of *Skye*, by Decree in *Anno* 1726: And Miniſter ſays, That it appears, that the Land-Rents would admit of no more at the Time.

43. *Kildrimmie*, 38 *l.* 15 *s.* ſettled by Decree, in *Anno* 1729, at full Tythe of the Pariſh; which is the Property of Five Heretors.

44. *St. Andrews* and *Dierneſs*, 38 *l.* 17 *s.* 9 *d.* This is only the Money-Stipend; but the Miniſter has alſo Grain to Value of 4 *l.* 3 *s.* 4 *d.* according to his own Account, and his Settlement by Decree, in *Anno* 1729. And he ſays, he has 5 *l.* 12 *s.* 10 *d.* of Glebes. Two Pariſhes united, and lie in *Orkney*.

45. *Kilninver* and *Kilmilford*, 42 *l.* 2 *s.* 8 *d.* Two Pariſhes united. Old Stipend in a Decree of the Sheriff of *Argyle*, *Anno* 1722, increaſed by a Bond from the principal Heretor in *Anno* 1729.

46. *Collace*, 37 *l.* 18 *s.* 4 *d.* ſettled by Decree, in *Anno* 1731, at full Tythe of the Pariſh, which is the Property of Two Heretors.

47. *Auchendore*, 39 *l.* 12 *s.* ſettled by Decree, in *Anno* 1730, and ſeems to be full Tythe of the Pariſh; which is the Property of Seven Heretors.

48. *Gigha* and *Cara*, ſtated 25 *l.* 2 *s.* 1 *d.* but is truly 37 *l.* 5 *s.* according to the Miniſter's Account. It is a new Erection, in *Anno* 1729, of another Pariſh, and conſiſts of two ſmall Iſlands in

Kintyre. The Miniſter ſays, he has the whole Tythe; and it is given him by the Decree on Record.

49. *Glendovan*, 27 *l.* 15 *s.* 6 *d.* The Miniſter ſays, That, according to his Information, there are no Tythes in his Pariſh.

50. *Combray*, 34 *l.* 17 *s.* 11 *d.* This Pariſh is an Iſland in the Firth of *Clyde.* The Miniſter ſays, That the Synod of *Argyle* being the Crown's Grantees of the Tythes, the Incumbent, in the Years 1707, and 1708, had Orders upon them from the Lords of Treaſury for 12 *l.* 10 *s.* of additional Stipend, *&c.* but they proved ineffectual, by the Synod's alledging, That there was no Fund for anſwering them.

51. *Ronſay* and *Egilſay*, in the *Orkney-Iſles*, 33 *l.* 6 *s.* 8 *d.*

52. *Deltings* in *Zetland*, 35 *l.* 9 *s.* 1 *d.*

53. *Sandſting* and *Aithſting*, in *Zetland*, 33 *l.* 6 *s.* 8 *d.*

54. *Orphir*, in the *Orkney-Iſles*, 39 *l.* 15 *s.* 6 *d.*

55. *Shappinſay*, one of the *Orkney-Iſles*, 38 *l.* 14 *s.*

The Stipends of all theſe Five appear, from the Miniſters Accounts of them, to be the Tythes themſelves in the Poſſeſſion of the Miniſters, as reckoned by them, or as farmed or let in Leaſe: And, No. 52. ſays, That, beſide the Sum of 33 *l.* 6 *s.* 8 *d.* he has Twenty Threaves of Oats and Barley, of Corn-Tythes; which he does not value, or turn into Money. No. 52. is Two Pariſhes united. And No. 55. ſays expreſly, That his Stipend, ſmall as it is, will be very near equal to the Tythes of the Pariſh.

56. *Sunprim*, 36 *l.* 8 *s.* 9 *d.* It appears by Proceedings in the Court of Seſſion, as ſet forth by the Miniſter, that the Stipend is the full Tythe; and that it is ſettled by a Decree.

57. *Arderſeir*, 36 *l.* 6 *s.* 8 *d.* The full Tythe, according to the Miniſter's own Account of the Rent of the Pariſh.

58. *Laggan*, 36 *l.* 2 *s.* 3 *d.* The Miniſter ſays, That there is no Fund for any Augmentation in his Pariſh.

59. *St. Leonards*, 30 *l.* 15 *s.* 6 *d.* The Tythes are Part of the Revenue of the Univerſity of *St. Andrews*, and the Principal of *St. Leonard's College* there is Miniſter *ex officio.*

60. *Dyce*, 39 *l.* 8 *s.* 10 *d.* The Tythes belong to the Univerſity of *St. Andrews.*

61. *Ordiquhill*, 27 *l.* 15 *s.* 6 *d.* The Property of One Heretor.

62. *Glenbucket*, 32 *l.* 6 *s.* 8 *d.* The Property of One Heretor.

63. *Rothes*, 37 *l.* 4 *s.* 6 *d.* The Property of One Heretor.

64. *Nigg* in *Aberdeen*, 37 *l.* 10 *s.* 10 *d.* the Property of One Heretor. Stipend is 6 *s.* 8 *d.* more by the Miniſter's Account.

65. *Keith-hall*, 38 *l.* 17 *s.* 9 *d.* The Property of Two Heretors.

66. *Premnay*,

66. *Premnay*, 36 *l.* 16 *s.* 6 *d.* The Property of Four Heretors. Stipend ſeems 1 *l.* 2 *s.* 2 *d.* more by the Miniſter's Account.

67. *Evie* and *Rendal*, 38 *l.* 17 *s.* 9 *d.* Two Pariſhes united; lying in *Orkney*, and Property of many Heretors. Have Glebes valued at 8 *l.* 18 *s.* 4 *d.*

68. *Weſtray*, *&c.* 38 *l.* 17 *s.* 9 *d.* Pariſh conſiſts of Two of the *Orkney-Iſles*. Has Glebes valued at 5 *l.* 14 *s.* 6 *d.*

69. *Eckford*, 43 *l.* 6 *s.* 8 *d.* Beſide this, the Miniſter ſays, he has ſome ſmall Tythes, of which he does not ſpecify the Value. The Pariſh is the Property of Five Heretors.

70. *New-Cumnock*, 41 *l.* 13 *s.* 4 *d.* Tythes all in the Hand of One Perſon. Pariſh lies in Presbytery of *Air*; which contains Twenty-eight Pariſhes, and all of them, but this, are well provided, from 50 *l.* to 90 *l.* Stipends.

71. *St. Madoes*, 41 *l.* 12 *s.* The Property of Two Heretors. Has a Glebe of Eighteen or Twenty Acres; which has been let for Grain to Value of 15 *l.* 9 *s.* 4 *d. Sterling per Annum.*

72. *Benvie*, 43 *l.* 14 *s.* The Property of One Heretor.

73. *Kinguiſey*, 44 *l.* 4 *s.* 6 *d.* The Property of Ten or Eleven Heretors.

74. *Holme*, ſtated 37 *l.* 4 *s.* 5 *d.* is truly 42 *l.* 13 *s.* 4 *d.* according to the Account of the Synod. It is a Pariſh in *Orkney*, belonging to ſundry Heretors; but Tythes all in the Hands of a Leſſee from the Crown.

75. *Croſs*, *Burneſs*, *&c.* 40 *l.* 5 *s.* 6 *d.* Two Pariſhes united in the *Orkney-Iſles*, belonging to ſundry Heretors, and having Glebes valued 5 *l.* 17 *s.* 2 *d.* as they are commonly let.

Abſtract of the Liſt of 75 *Stipends of Miniſters in* Scotland, *delivered in to the Committee by Mr.* Chalmer; *which* 75 *Stipends are all the Miniſters Stipends which the Committee of the General Aſſembly, in the Scheme-Book they prepared, ſtate to be under the annual Value of* 44 l. 8 s. 10 d. Sterling.

18 THE firſt Eighteen of theſe 75 Stipends, from No. 1. to No. 18. incluſive, are, by the Miniſters Returns of their own ſhewing, confeſſed to be above the annual Value of 44 *l.* 8 *s.* 10 *d.* and 10 of theſe 18 Stipends have been ſettled ſince the Union; and the Stipends of 3 others of them appear to have been fixed between 1633 and the Union; and the Miniſters intitled to moſt of theſe 18 Stipends confeſs to have the full Tythes of their reſpective Pariſhes.

11 The

11 The Eleven next of theſe 75 Stipends, from No. 19. to 29. appear, from the Miniſters Returns, to have been already modified and ſettled ſubſequent to the Year 1633, and before the Union, by the Commiſſioners of Teinds.

19 The Nineteen next of theſe 75 Stipends, from No. 30. to No. 48. incluſive, appear, from the Returns of their reſpective Miniſters, to have been ſettled and fixed by Decrees ſince the Union, except No. 35. which, it is admitted, was ſettled by Agreement *Anno* 1713, between the Miniſter and the Heretors, who are only Three.

10 The Ten next of theſe 75 Stipends, from No. 49. to No. 58. incluſive, appear, from the Miniſters Returns, to be the Amount of the full Tythes of their reſpective Pariſhes; and therefore are not capable, by Law, to be augmented.

2 — 60 15 — 75 As to the Two next Stipends, No. 59, and No. 60, it appears, the Tythes of thoſe Pariſhes belong to the Univerſity of *St. Andrews*; and the preſent Stipend of No. 59. is 30 *l.* 15 *s.* 6 *d.* and belongs to the Principal of the Univerſity, who has 130 *l.* a Year beſides; and, of No. 60, 39 *l.* 8 *s.* 10 *d.*

So that it hereby appears, that Sixty of the ſaid 75 Stipends cannot be affected by the preſent Queſtion; and, with regard to the remaining 15 Stipends, No. 61. to 75, which are all the Stipends of the Miniſters of the Church of *Scotland* which appear to be under the annual Value of 44 *l.* 8 *s.* 10 *d.* commonly called the Legal, which remain to be modified, or ſettled, under the Act of 1633, the Landed Intereſt are prepared to ſhew, that Two of theſe 15, *viz.*

2 *Eckford*, No. 69, and *North Ronaldſay*, otherwiſe *Croſs*, *Burneſs*, *&c.* No. 75, inſtead of being prevented, as has been ſuggeſted, by the Expence, are now actually ſuing before the Court of Seſſion, as Commiſſioners of Teinds, for Modifications of their Stipends.

3 It appears, by the Miniſters Returns, that the Stipends of Three others of the ſaid 15 Stipends, *viz.* *Glenbucket*, No. 62. the Stipends *Nigg*, No. 64. and *Evie* and *Randall*, No. 67. have been already ſettled by Decreets of the Commiſſion of Teinds; and it appears, the Stipend and Glebe of *Evie* and *Randall* is 41 *l.* 16 *s.* 1 *d.*

1 — 6 It appears, by the Miniſter's Returns, that there are no Funds for augmenting *Rothes*, No. 63.

As

As to the Nine remaining Stipends contained in Mr. *Chalmer*'s ſaid Liſt, the Circumſtances of thoſe Stipends appear thereby, and by the Miniſters Returns, to be as follows:

1 *St. Madoes*, No. 71. The Stipend is 41 *l.* 12 *s.* the Glebe 15 *l.* 9 *s.* 4 *d.* Total 56 *l.* 1 *s.* 4 *d.* a Year; which is ſufficient to ſhew it is above the Legal.

2 *Benvie*, No. 72. The Stipend is 43 *l.* 14 *s.* which is only Fourteen Shillings and Ten-pence under the Legal, and it belongs to one Heritor.

3 *Kinguiſey*, No. 73. The Stipend is 44 *l.* 4 *s.* 6 *d.* which is only 4 *s.* 4 *d.* under the Legal; and the Miniſter admits the reſt of the Tythes were ſold, by the Incumbent, 60 Years ago, to the Duke of *Gordon*.

4 *Holme*, No. 74. The Stipend is 42 *l.* 13 *s.* 4 *d.* and it appears, by the Miniſter's Returns, that the whole Pariſh is Biſhops Land, and held by a Leſſee from the Crown.

5 *Weſtray*, No. 68. The Stipend is 38 *l.* 17 *s.* 9 *d.*
The Glebe 5 *l.* 14 *s.* 6 *d.*

44 12 3

The Miniſter ſays, he is not ſure whether there is more than one Heretor.

6 *Keith-hall*, No. 65. The Stipend is 38 *l.* 17 *s.* 9 *d.* which appears to be the full Tythes of the Pariſh, the Property of only Two Heretors.

7 *Premnay*, No. 66. The Stipend is 37 *l.* 18 *s.* 8 *d.* and the Property of Four Heretors.

8 *Ordiquhill*, No. 61. The Stipend is only 27 *l.* 15 *s.* 6 *d.* and is the Property of One Heretor.

9 *New Cumnock*. The Stipend is 41 *l.* 13 *s.* 4 *d.* The Teinds are in one Hand.

The Reſult of all which is, that there is not One of theſe Nine Stipends, laſt-mentioned, which deſerve the Interpoſition of the Legiſlature in their Favour.

Notes

Notes of the Differences between the real Amount or Value of ſeveral Stipends of Miniſters in Scotland, *according to the Documents which the Committee of the General Aſſembly had for making up their Report, and the Amounts ſtated for them in the Scheme-book; upon which, immediately, they founded their ſaid Report.*

N. B. The Left Hand Column ſhews the real Amount, and the Right Hand one the Amount ſtated.

l.	*s.*	*d.*		*l.*	*s.*	*d.*
			1. *Inverask.*			
87	8	11	BY Decree ſet forth by the Miniſter; but becauſe Uſe of Payment falls ſhort in 2 Bolls Victual, it is ſtated	86	8	1
			2. *South Leith.* Firſt Miniſter.			
84	15	6	Paid him; but becauſe he has no Houſe that is reckoned at 9 *l.* and Stipend ſtated	75	15	6
			3. *Haddington.* One Miniſter.			
88	6	8	When his Wheat is turned into Money, at 12 *s.* 6 *d. per* Boll (its known Value); but by ſtating only 10 *s.* 5 *d. per* Boll, it is made	83	6	8
			4. *Wilton.*			
65	4	8	According to the Miniſter's Report; but ſtated, by Miſcalculation on very ſame *Data*, at	60	5	4
			5. *Tynrom.*			
72	18	4	According to juſt Calculation upon the *Data*; but by Error, on the Amount of the Converſion of Victual, ſtated	63	0	0
			6. *Kirkmahoe.*			
66	13	4	According to Decree, in Favour of the Miniſter; but, upon his Aſſertion that no more has been paid for 22 Years paſt, it is ſtated	55	11	2
			7. *Anwoth.*			
72	16	1	According to Decree, in Favour of the Miniſter; but, upon his Aſſertion that Uſe of Payment is leſs, and that he's			
538	3	6	Carried to next Page	424	6	9

l.	*s.*	*d.*		*l.*	*s.*	*d.*
538	3	6	Brought over	424	6	9
			obliged to pay 4 *l.* 3 *s.* 4 *d.* of Factor's Fee, it is ſtated	56	18	10
			8. *Girton.*			
67	14	6	According to juſt Calculation upon the *Data*; but, by Error upon the Amount of the Converſion of Victual, *&c.* it is ſtated	60	3	1
			9. *Borg*, &c.			
68	6	8	According to Decreet, in the Miniſter's Favours; but, on his Aſſertion that he is not paid accordingly, *&c.* it is ſtated at	57	15	4
			10. *Parton.*			
64	5	11	According to Decree, in the Miniſter's Favour; but, upon like Aſſertion, *&c.* as above, it is ſtated	55	15	7
			11. *Glaſſerton.*			
52	0	0	According to the Miniſter's Account; 3 *l.* 6 *s.* 8 *d.* ſunk, without any Reaſon aſſigned; and whole ſtated	48	13	4
			12. *Monigaff.*			
66	13	4	According to Decree, in Favour of the Miniſter, adding 11 *l.* 2 *s.* 3 *d.* to old Stipend; but becauſe he ſays the Heretors have refuſed to pay the Addition, Stipend is ſtated at	55	11	2
			13. *Ballantrae.*			
66	13	4	According to the Miniſter's own Account; but, without any Reaſon aſſigned, it is ſtated at	65	1	8
			14. *Stranrawer.*			
62	10	0	According to the Miniſter's own Account; but, upon his Aſſertion that 6 *l.* 13 *s.* 4 *d.* of it is not paid, and that he has no Manſe, or Glebe, it is ſtated at	52	3	4
986	7	3	Carried to next Page	876	9	1

l.	s.	d.		l.	s.	d.
986	7	3	Brought over	876	9	1
			15. *Kirkmichaell*, in Preſb. of *Air*.			
74	0	0	According to the Miniſter's own Account; but, by omitting his Victual altogether, and deducting 2 *l.* 15 *s.* 6 *d.* for Communion-Elements from the Money, it is ſtated	46	4	6
			16. *Mauchlin*.			
72	4	6	By the Miniſter's own Account of his Decreet; but becauſe he ſays that 5 *l.* 11 *s.* 2 *d.* Carriage-money, is worth nothing to him, it is ſtated	66	13	4
			17. *Galſton*.			
79	1	6	By the Miniſter's own Account of his Decreet; but, by omitting Value condeſcended upon, of his Vicarage altogether, and giving 2 *l.* 15 *s.* 6 *d.* for Elements, it is ſtated	68	6	8
			18. *Strathaven*.			
94	8	6	For the Miniſter and a Catechiſt, or Aſſiſtant, according to the Miniſter's own Account; but, by leaving out altogether the Proviſion for Catechiſt, it is ſtated	66	13	0
			19. *Bonhill*.			
66	5	3	By Miniſter's own Account of the Matter, and his Decreet; but, by ſinking ſo much of the Money, without Reaſon aſſigned, it is ſtated	63	17	6
			20. *Killearn*.			
75	0	0	When Victual is turned into Money, at 10 *s.* 5 *d. per* Boll, the known Rate, and loweſt claimed, for the other Miniſters there; but, by turning it into Money, at 6 *s.* 11 *d.* $\frac{1}{3}$ *per* Boll, it is ſtated	63	17	9
1447	7	0	Carried to next Page	1252	1	10

l.	s.	d.		l.	s.	d.
1447	7	0	Brought over	1252	1	10
			21. *Dunkeld.*			
79	10	7	According to the Miniſter's own Account; but, by leaving out the Value of the ſmall Tythes and Feu-duties, without Reaſon aſſigned, it is ſtated	66	19	9
			22. *Kinglaſſie.*			
65	17	4	By the Miniſter's own Account; but, by omitting ſo much of Money, without Reaſon aſſigned, it is ſtated	64	11	10
			23. *Cameron.*			
68	15	10	By juſt Calculation, according to the Miniſter's Account; but, by Miſcalcul upon the ſame *Data*, ſtated at	67	15	10
			24. *Newburn.*			
61	3	4	By juſt Calculation, according to the Miniſter's Decreet, and known Rates ſtated by others; but, by ſome Miſcalcul, it is ſtated at	60	2	6
			25. *Inchſtuir.*			
76	6	0	According to Miniſter's Account, and Decreet; but, by a Complication of Miſcalculs, *&c.* ſtated at	74	9	7
			26. *Longforgand.*			
79	15	3	By juſt Calculation, according to the Miniſter's own Account, and Rates; but, by miſcalculating on ſame *Data*, it is ſtated at	73	14	6
			27. *Barry.*			
61	13	0	By juſt Calculation, according to the Miniſter's Account, and Decreet; but, by miſcalculating on ſame *Data*, it is ſtated at	57	9	8
			28. *Montroſe.* Firſt Miniſter.			
75	9	2	By juſt Calculation, according to the Miniſter's Account, and the known Rate of turning Victual into Money; but, by Miſcalculation on ſame *Da-*			
2015	17	6	Carried to next Page	1717	5	6

l.	*s.*	*d.*		*l.*	*s.*	*d.*	*l.*
2015	17	6	Brought over	1717	5	6	237
			ta, and ſetting aſide 5 *l.* 4 *s.* 8 *d.* for Elements, it is ſtated	60	19	10	
			29. *Brechin.* Firſt Miniſter.				
101	7	10	By juſt Calculation, and according to the Miniſter's Account; but, by Miſcalculation, contrary thereunto, it is ſtated at	90	19	6	
			30. *Garvock.*				
45	17	10	By reckoning the ſmall Tythes at higheſt Value put on them by the Miniſter's Account; but, by abating a Tenth Part thereof, becauſe he ſays the Value may, ſome Years, be much leſs, it is ſtated at	44	15	7	
			31. Chapel of *Garioch.*				
59	15	8	According to the Miniſter's Account, reckoning his ſmall Tythes at 22 *l.* 4 *s.* 6 *d.* becauſe he ſays, that, if duly paid, they would amount to that Sum; and that they had been lett, about Twelve Years ago, for 20 *l.* 15 *s.* 6 *d.* but, by reckoning them only 8 *l.* 6 *s.* 8 *d.* becauſe he ſays, he is informed they were ſo valued above an Hundred Years ago, it is ſtated at	45	18	0	
			32. *Rayne.*				
47	5	8	According to the Miniſter's Account by juſt Calculation; but, by Miſcalculation in turning the Victual into Money, it is ſtated	44	10	1	
			33. *Longſide.*				
54	8	10	According to the Miniſter's Account; but, by under-ſumming the Particulars 20 *s.* and ſetting aſide 3 *l.* for Elements, it is ſtated at	50	8	10	
			34. *Cullen.*				
47	15	6	According to the Miniſter's own Account, reckoning his ſmall Tythes at				
2372	8	10	Carried to next Page	2054	17	4	

l.	s.	d.		l.	s.	d.
2372	8	10	Brought over	2054	17	4
			5 *l.* 11 *s.* 1 *d.* $\frac{1}{3}$; becauſe, he ſays, they are worth ſo much; but, by reckoning them only 2 *l.* 4 *s.* 5 *d.* $\frac{2}{3}$, becauſe, he ſays, he has lett them at that Sum, it is ſtated at	44	8	10
			35. *Fordice.*			
69	10	10	According to the Miniſter's own Account, including 2 *l.* 18 *s.* 4 *d.* as net Rent of ſome mortified Lands; but, by leaving out that, it is ſtated	66	12	6
			36. *Aberlower.*			
47	4	6	According to the Miniſter's own Account; but, without Reaſon aſſigned, ſtated at	44	8	10
			37. *Inverneſs.* Third Miniſter.			
85	4	4	According to the Miniſter's own Account, including 11 *l.* 15 *s.* 11 *d.* to which, he ſays, he is intitled by the Town's Grant of Two Penies on the Pint of Ale; but, by leaving out that, becauſe conteſted, deducting 21 *s.* 3 *d.* of his Stipend, becauſe he ſays it is not paid; and 5 *l.* 11 *s.* 1 *d.* becauſe he has no Glebe; and 5 *l.* 11 *s.* 2 *d.* for Salary to a Collector, *&c.* it is ſtated at	52	18	4
			38. *Inverneſs.* Firſt Miniſter.			
72	4	2	According to the Miniſter's Account, including 11 *l.* 15 *s.* 11 *d*, out of the Town's Grant aforeſaid, and 1 *l.* 10 *s.* of ſmall Tythes; but, by omitting theſe, becauſe he ſays the Town refuſes to pay them, it is ſtated at	58	18	3
			39. *Inverneſs.* Second Miniſter.			
72	4	2	Same Way as firſt	58	18	3
			40. *Aberdeen*, Firſt Miniſter.			
85	16	8	According to Miniſter's own Account; being 83 *l.* 6 *s.* 8 *d.* in Money, and			
2804	13	6	Carried to next Page	2381	2	4

l.	*s.*	*d.*		*l.*	*s.*	*d.*
2804	13	6	Brought over	2381	2	4
			2 *l.* 10 *s.* in Coals; but the Coals being left out, it is ſtated at	83	6	8
			41, 42. Ditto Second and Third Miniſters.			
171	13	4	The ſame Way, as to each, with the firſt	166	13	4
			N. B. Theſe three Miniſters, by various Deductions acclaimed, moulder down their Stipends greatly, and ſay, that in Proportion to a Country Stipend, each of them can be reckoned to have only 49 *l.* 12 *s.* 8 *d.*			
			43. *Croy.*			
63	6	8	According to the Miniſter's own Account and Rate, for turning his Victual into Money; but, by taking a lower Rate of Converſion, it is ſtated at	55	11	2
			44. *Fearn.*			
50	0	0	According to the Miniſter's Account, reckoning his ſmall Tythes at 5 *l.* 11 *s.* 2 *d.* as valued in his Decreet; but, by reckoning them at 3 *l.* 6 *s.* 8 *d.* as ſet by a late Incumbent, by reaſon of bad Payment, it is ſtated at	47	15	7
			45. *Ardnamurchan.*			
111	2	3	For the Miniſter and an Aſſiſtant, by Decree; but, by leaving out 27 *l.* 15 *s.* 7 *d.* allotted to the Aſſiſtant, and ſetting aſide 5 *l.* for Elements, it is ſtated at	78	6	8
			46. *Lerwick.*			
61	2	3	In Stipend and Element-money, according to the Miniſter's Account and Decreet; but ſtated for both	55	8	10
			N. B. The Inſtances under this Head which follow to No. 72. incluſive, being, in the Scheme-book, below 44 *l.* 8 *s.* 10 *d.* are alſo in the Liſt of 75 Pariſhes ſo ſtated, *&c.* Wherefore, that being referred to, the true and ſtated Sums only follow.			
3161	18	0	Carried to next Page	2868	4	7

l.	s.	d.			l.	s.	d.
3161	18	0		Brought over	2868	4	7
73	4	8	47	*Speymouth*	37	5	10
54	2	8	48	*Carmylie*	36	6	7
50	1	1	49	*Clackandyſert*	41	3	4
47	4	6	50	*Culſalmond*	30	11	1
46	10	6	51	*Crunond*	43	10	6
45	2	8	52	*Dalziell*	43	2	8
44	8	10	53	*Tulliniſtle*	40	1	9
44	8	10	54	*Muchart*	42	8	10
44	10	3	55	*Methlick*	43	19	6
45	1	1	56	*Kilchrennan & Dalavack*	44	6	1
50	0	0	57	*Balwhidder*	42	13	4
47	4	6	58	*Edderton*	43	15	0
44	8	10	59	*Kildonnan*	41	1	3
44	17	10	60	*Firth & Stennis*	43	8	11
44	8	10	61	*Walls, Sandneſs,* &c.	38	17	9
45	6	0	62	*Leſſudden* or *St. Boſwells*	43	19	10
44	8	10	63	*Leſly*	42	5	0
36	2	10	64	*Lexhill*	33	7	3
44	6	8	65	*Walls and Flotta*	37	18	10
37	4	11	66	*Guthrie*	34	16	4
43	1	1	67	*St. Andrews* and *Dierneſs*	38	17	9
37	5	0	68	*Gigha* and *Cara*	25	2	1
37	17	2	69	*Nigg* in *Aberdeen*	37	10	10
37	18	8	70	*Premnay*	36	16	6
42	13	4	71	*Holm*	37	4	5
43	1	1	72	*Croſs, Burneſs,* &c.	40	5	6
4336	18	8	Sums Total, as carried on		3879	1	4

To Sum Total of Left-hand Column, as carried on; *viz.*	4336	18	8
And 100 *l.* miſtaken in Tranſport, from p. 3d. to p. 4th.	100	0	0
Add true Sum of ſaid Column, p.	4436	18	8
Sum Total of Right-hand Column being	3879	1	4
Difference is the Amount of what is ſtated on theſe 72 Stipends, leſs than what ſhould have been ſtated, and is	557	17	4

Carried to next Page 557 17 4

		l.	s.	d.
	Brought over	557	17	4
73	*Skirling*, Money Stipend, ſtated leſs than *per Williamſon*'s Abſtract In.	0	13	4
74	*Cockburnſpeth*, Rent of a Houſe and Yard, in Return, omitted	0	15	0
75	*Eccles*, Underſtated, on Price of Grain, by Miſcalculation	0	14	10
76	*Dyſert*, Firſt Miniſter has, beſide what is ſtated for him, in Scheme-Book, *per* Decree, on Record, a Chalder Salt yearly, and Two Loads Coals weekly; and the Tythe of Fiſh (on which no Liquid, at Value, is put), and certain other Duties, in Moneys, to amount of 4 *l.* 15 *s.* 6 *d. Scots*, if not *Sterling*. *Inde* for *Scots*	0	8	0
77	*Dyſert*, Second Miniſter has, beſide what is ſtated in Scheme-Book, *per* ſaid Decree, a Load of Coals weekly			
78	*Roſskeen*, Money Stipend, ſtated leſs than *per* Decree and Abſtract	1	7	10
	Total Differences on the 78, beſide the illiquid Particulars to the Miniſters of *Dyſert*	561	16	4
79	*Kirkwall*, Second Miniſter has, by his own Account, 46 *l.* 15 *s.* 6 *d.* $\frac{2}{3}$; and is ſtated in Book only at 44 *l.* 8 *s.* 10 *d.* $\frac{2}{3}$. *Inde*	2	6	8
	Total Differences, on the 79. *ut ſupra*	564	3	0

Note, That there are about 50 other Stipends diminiſhed, in the Scheme-Book (from 5 *l.* 11 *s.* 1 *d.* to 2 *l.* 4 *s.* 6 *d.* on each), by allotting ſo much of it for furniſhing Communion-Elements, according to the Fancy of the Committee, who made up the Book.

Note, The Sixteen following Inſtances, being of thoſe wherein more is ſtated in the Book than ought to have been, the Left-hand Column ſhews what is ſtated, and the Right, the real Amount.

l.	s.	d.		l.	s.	d.
			80. *Livingſton.*			
66	13	4	But out of this he pays to the Miniſter of *Whitburn* 100 Marks *Scots*; and that is accordingly reckoned as Part of his Stipend, ſo this ſhould only be	61	2	3
			81. *Linlithgow.* Firſt Miniſter.			
100	0	0	But out of this he gives to the Second Miniſter (350 Marks), 19 *l.* 8 *s.* 11 *d.* and it is accordingly reckoned as Part of his Stipend, ſo this ſhould be	81	11	1
			82. *Tweedſmuir.*			
62	18	4	But too much by 1 *l.* 5 *s.* in miſcalculating, ſo ſhould be only	61	13	4
			83. *Whitſom* and *Hilton.*			
81	14	5	But 1 *l.* 3 *s.* 4 *d.* as Price of Grain twice ſtated, ſo it ſhould be	80	11	1
			84. *Bedrule.*			
59	19	8	But 4 *l.* 8 *s.* 7 *d.* which, Miniſter ſays, comes, as ſmall Tythe, in place of ſo much ſunk of 55 *l.* 11 *s.* 1 *d.* Stipend is added to it, ſo whole ſhould be only	55	11	1
			85. *Bothwell.*			
80	11	1	By adding Sum expreſsly allotted for Elements to Stipend, which is only	75	0	0
			86. *Rhind.*			
53	15	2	But there is 6 *l.* more Money than is warranted by the Miniſter's Account, ſo ſhould be	47	15	2
			87. *Dron.*			
67	11	4	But there's 2 *l.* 4 *s.* 6 *d.* more Money than warranted by the Miniſter's Account, ſo it ſhould be	65	6	10
			88. *Portmoak.*			
57	4	5	But there's ſtated 2 Bolls Grain (Value 16 *s.* 8 *d.*) more than is warranted by the Miniſter's Account, ſo it ſhould be	56	7	9
630	7	9	Carried to next Page	584	18	7

l.	*s.*	*d.*		*l.*	*s.*	*d.*
630	7	9	Brought over	584	18	7
			89. *Kemnay*,			
45	16	8	But there's an Error in turning the Grain into Money, to the Extent of 6 *l.* 18 *s.* 10 *d.* ſo Stipend ſhould be only	38	17	10
			90. *Grange.*			
52	15	6	But there is 1 *l.* 1 *s.* 7 *d.* more Money ſtated than is warranted by the Miniſter's Account, ſo Stipend ſhould be only	51	13	11
			91. *Dundurcus.*			
60	15	2	But there is an Error of 11 *l.* 17 *s.* 4 *d.* in turning the Grain into Money, ſo it is only	48	17	10
			92. *Rothes.*			
37	4	5	Is 2 *l.* 15 *s.* 7 *d.* more than ſhould be by Miniſter's Account, ſo is	34	8	10
			93. *Contain.*			
55	11	1	According to Miniſter's Account and Decree, on Record, ſhould only be	50	0	0
			94. *Dingwall.*			
68	2	6	Is too much, by Miſcalculation, on turning Grain into Money, and other Errors, to Extent of 13 *l.* 7 *s.* ſo ſhould only be	54	15	6
			95. *Kincardin*, in Preſb. of *Tayne.*			
50	0	0	Reſtricted by Decree, on a Review, to	44	8	10
1000	13	1	Sums, with reſpect to theſe laſt Sixteen Pariſhes	908	1	4
			Sum of Left-hand Column being	1000	13	1
			And Sum of Right-hand Column	908	1	4
			Difference is the Amount of what is ſtated on theſe 16 Stipends, more than what ſhould have been ſtated; and is	92	11	9

N. B. In the Caſe of *Linton*, in Preſb. of *Peebles*, 5 *l.* which is Element-money, is added to, and ſtated as Part of Stipend.

The

The FEES *in the* COURT *of* COMMISSION, *&c.*

139. SEEING, by the Act of Parliament 1707, the Lords of Council and Seſſion are authorized to judge all Cauſes, which were formerly referred to the Commiſſions of Parliament, for Plantation of Kirks and Valuation of Tythes, the ſaid Lords, purſuant to the Powers given to them, towards the rightful ordering of Adminiſtration of Juſtice, have regulated the Fees and Dues payable to the Clerks or Macers in that Court, which were not before determined, and are as follows:

The PRICES *payable to the Clerk of the Commiſſion for Plantation of Kirks, and Valuation of Tythes, as ſettled by an Act of the Lords*, November 17, 1708.

	Sterling. *l.*	*s.*	*d.*
For raiſing and ſigneting a Summons	0	3	4
Calling a Summons	0	3	4
Inrolling a Cauſe	0	3	4
Acts and Diligences, each Sheet, beſides Signet	0	6	2
Diligence, without an Act, each Sheet	0	5	0
Acts, at a Miniſter's Inſtance, for his Stipend, or Augmentation thereof, each Sheet	0	4	1⅓
Calling an Act	0	2	6
A Party's Oath	0	3	0
A Witneſs's Oath	0	2	0
Inrolling in the Roll of Cauſes to be prepared	0	5	0

140. *Preparing a Cauſe to be modified by the Lord Ordinary, not under* 5 *Sheets, nor above* 10 *Sheets.*

	l.	*s.*	*d.*
Inrolling in the Roll of concluded Cauſes to be prepared	0	5	0
Petitions	0	5	0
Anſwers	0	5	0
Each Production	0	5	0
Calling a Cauſe, by Warrant from the Lords	0	7	6
Attending Ordinaries, at making Localities, for all the Diets	0	10	0
Decreets of Valuation	3	0	0
Decreets of Approbation	3	0	0
Decreets of Sale of Tythes	3	0	0

		l.	s.	d.
Decreets of	Erection	3	0	0
	Prorogation	3	0	0
	Reduction	3	0	0
	Abſolvitor	3	0	0
	Annexation	3	0	0
	Disjunction	3	0	0
	All other Decreets	3	0	0
The Extracts of all Decreets, at a Miniſter's Inſtance, for his own Stipend, or Augmentation		2	0	0

The Fees of the Macers in the Commiſſion appointed by an Act of the Lords of the Commiſſion, dated December 22, 1708.

	l.	s.	d.
For calling a Summons	0	2	6
An Act	0	2	0
A Party's Oath, either in Court, or on Commiſſion	0	2	6
A Witneſs's Oath	0	2	0
A Proteſtation	0	2	0
Decreets, at the Inſtance of Heretors, or Tackſmen	0	5	0
Decreets, at the Inſtance of a Miniſter for Stipend	0	3	4
Executing a Caption for returning Proceſſes	0	5	0

141. Theſe Prices are declared to be in full of all to be exacted for Fees, or Drink-money, or any other Pretence whatever, either by Clerk, or the Macers of Court, who, with the Servants, are enjoined punctually to obſerve the above Prices: With Certification, if they failzie, they ſhall pay, for the Firſt Tranſgreſſion, 100 *l. Scots*, one Half to the Party Complainer, and the other Half to be diſpoſed of to ſuch pious Uſes as the Lords ſhall think fit.

142. For the Second Fault, they pay 200 *l. Scots*, to be divided as the former.

143. For the Third Malverſation, Deprivation, and Removing them from their reſpective Offices.

No. IV.

Anno 1587. Act 73.

Of the Sovertie to be founden be Officiares of Armes: And of their dailie Wage.

ITEM, For the better and mair ſuir ſerving of the King, be Officiares of Armes; It is ſtatute and ordained, That nane be reteined, or hereafter admitted to that Service, but he that with his utheres Injunctiones ſhall finde Soverty to be alwaies furniſhed with a ſufficient reddie Horſe, quhair-upon to ſerve his Heineſſe and Lieges, and that his Sovertie ſall be anſwerable for the Damnage and Intereſt of his Falſed, Slouth, and informal Doing, in his Heineſſe Service, or uther Parties, gif onie ſall happen: And that the Wage of onie Officiar of Armes on the Day ſall be ane Mark-Money, Summer and Winter over head.

Anno 1587. Act 84.

Officiares of Armes, convict of Falſed, ſuld be puniſhed to the Death.

ITEM, It is ſtatute and ordained, That Officiares of Armes, committand Falſed, or Oppreſſion of the Leiges in Execution of their Office, ſall be called therefore before the Juſtice, or his Deputes at Juſtice, or Aires, or particular Dietes, and puniſhed to the Death, in caſe they be found culpable.

Anno 1594. Act 208.

Anent Soverties for Officiares of Armes.

ITEM, Becauſe that the Soverties of all Officiares of Armes be admitted be *Lyon* King of Armes, are found to him and his Clerk; It is therefore ſtatute and ordained, That they be charged twice in the Zeire to produce their Buikes of Soverties, to the effect our Soveraine Lord or his Theſaurar bee nocht defrauded of the Half of the Penalties for the deprived Officiars; and this to be uſed of the Theſaurar, in ſik ſort as the Schireffe Clerks ar ordained to produce their Hornings, to the Effect that Execution may follow thereupon: And the Theſaurar to be charged with the Receipt

ceipt of the foreſaids Penalties, in his Comptes. And further ordainis all the ſaidis Officiars, that hes not found ſufficient Caution for dew Adminiſtration in their Office, or quhais Cautioneris are deceaſſed, or are not ſufficient, to find Caution of new, betwixt and the Firſt Day of *Auguſt* nixt to cum; utherwiſe the not finding of the ſaid Caution, is preſentlie declaired to be Cauſe of their Deprivation. Quhilk Deprivation ſhall be immediatlie publiſhed at the Mercat Croce of the Schirefdomes quhair the ſaidis Officiars remainis; and all their Executions fra thencefurth to be unauthentick and null.

Anno 1663. Act 21.

Act anent Manſes and Glebes, and Poinding for Miniſters Stipends.

OUR Sovereign Lord, conſidering the great Difficulties which oftentimes the Miniſters of the Goſpel do meet with in the due Payment of their Rents and Stipends, ſo that they are ſometimes forced to uſe legal Execution by Poinding; and, in ſo doing, are neceſſitate to carry the Goods pointed to be appriſed at the Mercat-Croſs of the Head-Burgh of the Shire, Stewartry, Bailery, or Regality, many Miles diſtant from the Place where the Goods are pointed, to the great Prejudice of the Party, and of the Goods alſo: Therefore his Majeſty, with Advice and Conſent of the Eſtates of Parliament, declares, That it ſhall be ſufficient to the Miniſters foreſaid, in poinding, appriſing, diſtrenzying the Goods of the Perſons deficient in Payment of their Rents and Stipends, to compriſe the ſaids Goods, by honeſt ſworn Men, upon the Ground of the Lands and Place where the Goods, which ſhall be as ſufficient as the ſame were done at the ſaids Mercat-Croſſes. And becauſe, notwithſtanding of divers Acts of Parliament made of before, divers Miniſters are not yet ſufficiently provided with Manſes and Glebes, and others do not get their Manſes free at their Entry; therefore our Sovereign Lord, with Advice foreſaid, ſtatutes and ordains, That where competent Manſes are not already built, the Heretors of the Paroch, at the Sight of the Biſhop of the Dioceſe, or ſuch Miniſters as he ſhall appoint, with Two or Three of the moſt knowing and diſcreet Men of the Paroch, build competent Manſes to their Miniſters, the Expences thereof not exceeding One thouſand Pounds, and not being beneath Five hundred Merks. And, where competent Manſes are already built, ordains the Heretors of the Paroch to relieve the Miniſter, and his Executors, of all Coſt, Charges, and Expences, for repairing of the foreſaid

ſaid Manſes: declaring hereby, That the Manſes being once built and repaired, and the Building or Repairing ſatisfied and paid by the Heretors, in manner foreſaid, the ſaids Manſes ſhall thereafter be upholden by the incumbent Miniſters, during their Poſſeſſion, and by the Heretors, in time of Vacancy, out of the readieſt of the vacant Stipend. In like manner ordains, That every Miniſter have Fuel, Foggage, Feal, and Devots, according to the Act of Parliament made in *Anno* 1593: As alſo, That every Miniſter (except ſuch Miniſters of Royal Boroughs, who have not Right to Glebes) have Graſs for One Horſe, and Two Kine, over and above their Glebe, to be deſigned out of Kirk-Lands, and with Relief, according to the former Acts of Parliament ſtanding in Force; and and if there be no Kirk-Lands lying near the Miniſter's Manſe, out of which the Graſs for One Horſe, and Two Kine, may be deſigned, or, otherways, if the ſaids Kirk-Lands be arable Land, in either of theſe Caſes, ordains the Heretors to pay the Miniſter, and his Succeſſors, yearly the Sum of Twenty Pounds *Scots*, for the ſaid Graſs for One Horſe, and Two Kine, the Heretors always being relieved according to the Law ſtanding of other Heretors of Kirk-Lands in the ſaid Paroch. And, becauſe ſeveral Kirks have no Glebes as yet deſigned to them, it is hereby ſpecially provided, That in all Deſignations of Glebes, Incorporate-Acres, in Village or Town, where the Heretor hath Houſes and Gardens, the ſame ſhall not be deſigned, he always giving other Lands neareſt to the Kirk. And his Majeſty, with Advice aforeſaid, for ſpecial Cauſes and Conſiderations, declares, That this preſent Act, as to the Manſes, is to have Force, as the ſame had been made and dated the 14th of *March* 1649.

No. V.

6. *Act for the ordering of Suſpenſions of the Benefices and Stipends of of the Clergy.*

November 30. 1669.

THE King's Majeſty being careful that the Maintenance of the Clergy be duly ſecured unto them, and that they be not withdrawn by unneceſſar Law-ſuites, for Recovery thereof; Doth therefore, with Advice and Conſent of his Eſtates of Parliament, ſtatute and ordain, that no Suſpenſion ſhall be paſt in time coming againſt any Archbiſhop, Biſhop, Miniſter of the Goſpel, or Univerſities and Colledges, of any Charges to be given at their Inſtances for Payment

Payment of the Rents of their Benefices, Stipends, or Colledge-rents, where they have ſpecial Decreets againſt the Heretors or Poſſeſſors due and liable in Payment thereof to them; except upon Production of Diſcharges, or Conſignation of the Sums charged for, if the Rent of the Benefice or Stipend conſiſt in Money; or of One hundred Merks *Scots* for ilk Chalder of Victual where the ſame conſiſts in Victual, and proportionally if the Victual charged for be leſs than a Chalder, without Prejudice to the Lords of Seſſion to modifie a greater or leſs Sum for the Chalder of Victual, as they ſhall find Cauſe at the diſcuſſing of the Suſpenſion. And if any Bill of Suſpenſion of a General Charge ſhall be preſented in time of Seſſion, That the Ordinary Lord upon the Bills, before the paſſing thereof, call for the Chargers at the Bar, that they may inſtruct the Ground of the Charge: And in caſe it ſhall be found by the Lords of the Seſſion, at the Diſcuſſing of the Suſpenſion, that either the Charge hath been malitiouſly given, or malitiouſly ſuſpended; That the Lords modifie a Fifth Part of the Sum charged for, of Expenſes of Plea to be payed by the malitious Charger or Suſpender.

27. *Act concerning the Church.*

July 16. 1695.

AND his Majeſty, with Conſent foreſaid, for the greater Encouragement of all Miniſters of the Goſpel, not only ratifies the Act of Parliament 1669, forbidding all Suſpenſions of ſpecial Decreets and Charges for Miniſters Stipends, or the Rents of their Benefices, except on Production of Diſcharges, or upon Conſignation in manner therein provided: But further ſtatutes and ordains, that there be no Advocation, or Siſt of Proceſs granted of Actions for the ſaid Stipends, or Rents of Benefices, when purſued before inferior Judges, and that, in the Caſe of a Decreet, there be neither Suſpenſion nor Siſt of Execution granted, except on Production of clear Diſcharges or Conſignation, as ſaid is; and if any Suſpenſion be paſt, that the ſame be ſummarly diſcuſſed at the Inſtance of the Charger, without abiding the Order and Courſe of the Roll: And that if the Letters be found orderly proceeded, the Suſpender be alſo decerned at leaſt in a Fifth Part more than the Sums charged for, with what more the Lords ſhall judge reaſonable to be payed to the Charger for his Expenſe and Damnage; and if any Miniſter ſhall happen to purſue for his Stipend by way of ordinary Action before the Lords, it is hereby farther ordained, that the ſame be ſummarly

ſummarly proceeded in, and diſcuſſed, without abiding the Courſe of the Roll.

20. *Act ordaining Annualrent to be due after Horning.*

Auguſt 4. 1621.

OUR Sovereign Lord, and Eſtates of Parliament, conſidering the great Prejudice which divers of his Majeſtie's Lieges ſuſtaine by the Want of their Money, lent and given forth upon Band, or Contract, or otherwiſe juſtlie owing unto them, by their Debtors: Who having uſed all Execution competent to them by Lawe, againſt their Debtors, by charging and putting of them to the Horne, are forced, after many Years, to receave their principal Summe and Penaltie, without any Satisfaction of their annual Rent, and Intereſſe of their Money in the mean time. Which as it is a Prejudice unto the true Creditors; ſo it is ane Occaſion to the Debtors to contemne his Majeſtie's Charges, and Letters of Horning: Who reſolve in End to pay no more for Reliefe of the Horning, after many Yeares Delay, then they were obliſhed unto at the Beginning.

For Remeed whereof, his Majeſtie, with Advice and Conſent of the Eſtates of Parliament, ſtatuteth and ordaineth, That whenſoever any Perſon is denounced Rebel, and put to the Horne, for not Payment of Summes of Money, owing by him, by Band, Contract, or otherwayes; That after the ſaid Denunciation, the ſaid Perſon ſo denounced ſhall be ſubject in Payment of Annualrent for the ſaid Summes for the which he is put to the Horne, and that of all Yeares and Tearmes from the Date of the ſaid Denunciation, unto the Time of Payment of the ſame: And that notwithſtanding there be no Paction, nor Condition of Annuelrent made betwixt the ſaid Parties, which may bind the ſaid Partie who is denounced Rebel, unto the Payment thereof. And ſuch Perſons as are now ſtanding Rebels, and at the Horne, this Act ſhall not worke againſt them *(quoad præterita)*, but ſhall have Strength and Force againſt them in time coming, from the Feaſt of Martinmeſſe next in this inſtant Yeare of God One thouſand Sixe hundreth Twentie and one Yeares; and they ſhall begin to be ſubject in Payment of Annualrent at that Time, and yearly and tearmly thereafter, until the Payment of the principal Summe.

No. VI.

Extract Sederunt *of the Heretors of the Shire of* Edinburgh, *held within the inner Seſſion-houſe of* Edinburgh, *upon* Tueſday *the* 12*th* June 1750.

MArquis of *Lothian.*
Earl of *Morton.*
Earl of *Lauderdale.*
Earl of *Hopetoun.*
Lord *Roſſe.*
Lord Preſident of the Seſſion.
Hugh Dalrymple, Eſquire, of *Drumore*, one of the Senators of the College of Juſtice.
Sir *John Clerk*, of *Pennycook*, one of the Barons of Exchequer.
Maſter of *Torphichen.*
Sir *William Dalrymple*, of *Couſland.*
Sir *John Inglis*, of *Cramond.*
Sir *Alexander Dick*, of *Preſtonfield.*
Sir *Robert Myreton*, of *Gogar.*
Charles Hope-Vere, of *Craigie-Hall*, Eſquire.
Mr. *Robert Dundas*, younger, of *Arniſton.*
Archibald Tod, of *Hayfield.*
Mr. *William Binning*, of *Wallyfoord.*
James Forreſt, of *Comieſton.*
William Drummond, of *Hathornden.*
Archibald Broun, of *Blackfoord.*
Dr. *John Clerk*, of *Spittle.*
George Drummond, of *Eaſterhailles.*
John Mitchelſon, of *Middleton.*
Ronald Campbell, of *Balerno.*
Andrew Chalmer, of
Mr. *Robert Clerk*, of *Firhill.*
Alexander Le Grand, of *Bonningtoun.*
James Turnbull, of *Currie.*
Mr. *Archibald Murray*, of *Murrayfield.*
William Moriſon, of *Craigleith.*
Alexander Foulis, of *Ratho.*
Robert Hepburn, of *Baads.*
John Davidſon, of *Whitehouſe.*
James Watſon, of *Saughton.*
Thomas Wood, of *Warrieſton.*
James Dewar, of *Vogrie.*
Thomas Wilkieſon, of *Cheſterhall.*
John Howiſon, of *Brachead.*
John Preſton, of *Gourton.*
John Borthwick, of *Crookſtone.*
John Sivewright, of *Meggatland.*
John Philp, of *Greenlaw.*
Alexander M'Connochie, of *Meadowbank.*
Robert Cleland, Portioner of *Kirknewton.*
Andrew Houſton, of *Calderhall.*
John Scott, of *Malleny.*
John Young, of *Humbie.*
Robert Dalrymple, of *Dreghorn.*
William Baird, of *Newbyth.*
Mr. *Thomas Calderwood*, of *Polton.*
William Campbell, of *Hobbs.*
Edward Burd, of *Knightsrigg.*

Mr.

Mr. *Archibald Inglis*, of *Auchindinny*.
Thomas Craig, of *Riccarton*.
William Tytler, of *Woodhouſelie*.
Robert Balfour Ramſay, of *Whitehill*.
Mr. *Robert Wallace*, of *Damhead*.
George Pringle, of *Torwoodlie*.
James Scott, of *Howden*.
John Dewar, of *Canaan*.
Thomas Adiſon, of *Carcant*.
John Cochrane, of *Ravelrigg*.
Andrew Balfour, of *Braidwood*.
Adam Fairholm, of *Greenhill*.
Patrick Henderſon, of
Thomas Cranſton, of *Dewar*.
John Tait, of *Pirn*.
John Nisbet, Portioner of Water of *Leith*.

The Right Honourable the Earl of *Lauderdale*, High-Sheriff of this Shire, opened the Meeting by acquainting them, That he had called them together, at the Deſire of the Commiſſioners of Supply, in order to take into Conſideration the late Proceedings of the Clergy, on a Scheme of Augmentation of their Livings, and of applying to Parliament for that Effect; and to deliberate upon what Meaſures might be proper to be taken and followed forth by them upon this Occaſion.

The Meeting, having elected the Right Honourable *Robert Dundas*, of *Arniſton*, Lord Preſident of the Seſſion, to be their *Præſes*, took the ſaid Matter under Conſideration; and, after mature Deliberation, and Reaſoning thereupon, came to the following Reſolutions; *viz.*

That it is the Opinion of this Meeting, that the Scheme for the Augmentation of the Miniſters Stipends in *Scotland*, as it has been formed and carried on by ſeveral of the Clergy, and has been publiſhed and explained by the Proceedings of the Church Judicatories, and their Committees, who have had it under their Conſideration, will, if it ſhould ſucceed, prove highly detrimental to the Landed-Intereſt in *Scotland*, and a ſtrong Incroachment upon their Property; will tend to put their Rights to the Tythes, purchaſed for high and valuable Conſiderations, upon the Faith of the Laws, as they have now ſtood for upwards of One hundred Years, into the utmoſt Confuſion; and will render them intirely uncertain and precarious, and lay a Foundation for endleſs and inextricable Law-ſuits.

That it will manifeſtly tend to the Diſquiet and Diſturbance of the Peace of the Country, and may be prejudicial to the Intereſt of Religion itſelf, as well as of the Clergy, by ſouring the Minds of the People, and alienating their Affections from the Paſtors of the eſtabliſhed Church; whereas nothing can be more agreeable and advantageous than an harmonious Union, and a good Under-

ſtanding betwixt Miniſters and their People in particular, and betwixt the Clergy of the eſtabliſhed Church and the Landed-Intereſt in general:

That for theſe, and many other obvious Reaſons, this Scheme ought to be oppoſed by all legal Methods, and particularly by a Counter-application to Parliament, in caſe the Clergy ſhall bring their Scheme into either Houſe: And, for that Purpoſe, and for the better managing and conducting that Oppoſition,

The Meeting appointed the Right Hon. the Earls of *Moreton*, *Lauderdale*, *Hopton*, and The Hon. *Charles Hope-Vere*, *Robert Dundas*, and *Archibald Murray*, Eſqrs; as a ſtanding Committee, any Two a Quorum, to correſpond with the other Counties in *Scotland*, to meet and adviſe with ſuch Perſons as ſhall be appointed by them, and to concur with them in concerting and carrying on ſuch Meaſures as they ſhall ſee proper, for diſappointing the Succeſs of the ſaid Scheme; and to correſpond with Members of Parliament, and give them proper Information in ſuch Matters as may ſeem uſeful or neceſſary for the right underſtanding of any Queſtions that may ariſe in relation to this Affair, particularly as to the State of the Teinds, the preſent Situation of the Clergy with reſpect to their Stipends, and the Powers already competent by Law to the proper Judicatory, for increaſing ſuch Stipends, when the Circumſtances of the Teinds, and of the Pariſh, can allow it:

With Power to them to concert proper Methods for raiſing Money towards defraying the Expence of oppoſing this Project, and to raiſe the ſame accordingly; to employ ſuch Agents, Managers, and learned Counſel, for carrying on this Oppoſition, as they ſhall think fit; and, in general, to do every thing that can fall under the Power of ſuch a Committee, which ſhall be thought neceſſary for preventing the Prejudice that may ariſe to the Landed-Intereſt, by the Succeſs of this Scheme:

And, more particularly, to make ſuch Application to Parliament, by Petition, or otherwiſe, as they ſhall judge proper, either in Name of this County ſingly, or in Concurrence with other Counties, who ſhall think fit to join with them.

And the Meeting ordered theſe their Reſolutions to be publiſhed in the News-papers, that the Gentlemen of other Counties may be acquainted therewith; and may have Opportunity of concerting and ſettling ſuch Correſpondence with this Committee, as they ſhall think fit.

Extracted

Extracted forth of the *Sederunt* Books of the Heretors of the Shire of *Edinburgh*, upon this and the four preceding Pages, by Mr. *John Belſches*, Advocate, Sheriff Clerk Principal of *Edinburgh*, and Clerk to the Meeting.

John Belſches.

At Peebles, *the Firſt Day of* June, *One thouſand Seven hundred and Fifty Years.*

THE which Day the Juſtices of Peace, Commiſſioners of Supply, and Heretors of the Shire of *Tweedale*, met here this Day, having taken to their ſerious Conſideration the Application intended to be made to Parliament by the Miniſters of the Church of *Scotland*, for augmenting, obtaining, and uplifting their Stipends, have unanimouſly determined, to the utmoſt of their Power, to oppoſe, by all lawful Means, this (in their Opinion) imprudent and unjuſtifiable Attack upon their Properties; and, in order thereto, have appointed a Committee of their Number to meet at *Edinburgh* on *Tueſday* the Sixth of *November* next to come, there to concert with Gentlemen, who ſhall be appointed to meet with them from other Counties, ſuch Meaſures as ſhall be thought moſt proper to ward this intended Blow: And, that they may have the Advice and Concurrence of their Countrymen in this Matter, in which the Intereſt of the Whole ſeems ſo much concerned, they have ordered this their Reſolution to be publiſhed in the News-papers, in Hopes other Counties, who reſolve to oppoſe this Attack, will appoint ſome of their Number to meet, with their Committee, at the Time and Place above-mentioned.

Signed, by Order and in Preſence of the Meeting, by Sir *James Naſmyth*, of *Poſſo*, Baronet, *Præſes*. Signed

J. Naſmyth.

Thereafter the Commiſſioners nominate and appointed Sir *James Naſmyth* their *Præſes*, Major *Cochran*, Mr. *Veitch* of *Bogend*, Mr. *John Carmichael*, Advocate, Mr. *James Montgomery*, Sheriff-depute, to meet with the Gentlemen of other Shires, that ſhall be appointed to concert as above. Signed

J. Naſmyth.

Extracted from the Commiſſioners Books of Supply of the Shire of *Tweedale*, on this and the preceding Page, by

John M'Euen, Clerk.

At

At Peebles, *the Second Day of* October *One thouſand Seven hundred and Fifty Years.*

THE which Day the Freeholders, and others the Heretors of the Shire of *Tweedale*, met at *Peebles*, in purſuance of circular Letters wrote to them by their Conveener for that Effect, having conſidered what further Steps might be proper for them to take for carrying into Execution their former Reſolution of oppoſing, by all legal Methods, the Scheme for Augmentation of Miniſters Stipends, are unanimouſly of Opinion to agree with other Counties, in committing the Management of this Oppoſition to the noble Lords and Gentlemen appointed by the Shire of *Mid-Lothian*, as their ſtanding Committee for oppoſing the ſaid Scheme; and impower them to act, for and in Name of this County, in the ſame Way that they do for their own, by employing Agents, Managers, and learned Counſel, or, if need be, by applying to Parliament by Petition, or otherwiſe, in their Name, as well as that of their own; and in general to do every thing elſe they judge proper for diſappointing of the ſaid Scheme; and have directed the Committee, formerly appointed by this Shire, to correſpond with the *Mid-Lothian* Committee, and give them all the Information and Aſſiſtance in their Power: And, in order to raiſe a Fund for defraying the Expence of this Oppoſition, they are reſolved to follow the Method taken by the *Mid-Lothian* Committee, and tranſmit the Money, ſo collected, to Mr. *Andrew Chalmer*, their Clerk; and have directed Sir *James Naſmyth*, of *Poſſo*, Baronet, their *Præſes*, to acquaint the noble Lords and Gentlemen of the *Mid-Lothian* Committee with this their Reſolution, and to ſend them an Extract thereof: And further have inſtructed Mr. *John Dickſon*, younger, of *Kilbucho*, Advocate, their Repreſentative in Parliament, to oppoſe, as much as in him lies, every Step the Clergy ſhall take to carry on their ſaid Scheme. Signed

J. Naſmyth Præſes.

Extracted, on this and the preceeding Page, by

John M'Euen, Clerk.

No. VII.

At Edinburgh, *the Thirteenth Day of* May, *One thouſand Seven hundred and Fifty one Years.*

WHICH Day Mr. *John Gowdie*, Profeſſor of Divinity in the Univerſity of *Edinburgh*, produced, to the General Aſſembly

bly of the Church of *Scotland*, a Letter from Mr. *Robert Patoun*, Dr. *Patrick Cuming*, Mr. *William Steel*, Miniſters, and Mr. *David Dalrymple*, Ruling Elder, Commiſſioners from the laſt General Aſſembly, now at *London*; and read a Letter directed to him, incloſing the ſame, deſiring him to preſent it to the Aſſembly: Which, being read, is as follows:

REV. SIR,

That you may have a clear and full View of the Whole of our Proceedings here, we have judged it proper to give you the followlowing Account.---After being at all Pains to be ſufficiently inſtructed in the Nature of the Buſineſs committed to us, and which we reckoned ourſelves indiſpenſably obliged to proſecute, Three of us ſet out for *London*, where we arrived upon the 17th of *November* laſt, judging it neceſſary to be here ſo early, that we might have time to remove, if poſſible, the Prejudices which had been raiſed againſt us, and have more Leiſure and Opportunity to give a fair Repreſentation of the Inſtructions given us, by Conference with thoſe principally concerned in the Adminiſtration, before the Meeting of Parliament, when probably we could not have ſuch eaſy Acceſs to them. Accordingly, at different times, we waited upon the Miniſters of State, and other Perſons of the higheſt Rank and Influence; had a fair Hearing from them, and Opportunity to obviate, in the beſt manner we could, the Objections which had been moved againſt us: We were received by them with great Civility, and with Expreſſions of high Regard to the Church of *Scotland*, for our diſtinguiſhed Loyalty and Uſefulneſs; but had no definitive Anſwer from them, further than that they would have the Matter under their Conſideration, and hear what might be repreſented upon the other Side, by the Members of Parliament from our own Country. After the Meeting of the Parliament, we waited upon many Members of it, in both Houſes, from *North* as well as *South Britain*, who were reckoned to have the greateſt Influence; and endeavoured, in the beſt Manner we could, to reconcile their Minds to the Views of the General Aſſembly; particularly with reſpect to the raiſing of the *Minimum*.----As ſoon as we received our Records, and other Papers, neceſſary to ſtate and ſupport our Cauſe, we gave in, to the Miniſters of State, a written Memorial of the ſeveral Articles given us in Charge by the General Aſſembly: And, ſome time after, we printed that Memorial, with Additions, under the Title of, *A juſt View of the Proceedings of the General Aſſembly*, &c. Copies of both which we tranſmitted to the Committee of Correſpondence; wherein we particularly inſiſted

ſiſted upon the Reaſonableneſs and Neceſſity of raiſing the *Minimum*. When it was thought proper, we had the Honour of being preſented to his Majeſty, and the Royal Family, and were graciouſly received.---We omitted no Opportunity of promoting our Cauſe, as far as we were capable; but, after all our Diligence, we were aſſured by theſe chiefly concerned in the Adminiſtration, that, in the preſent Circumſtances, we could have no Hope of getting the *Minimum* raiſed; and that the mentioning of it in our Petition would deſtroy the Whole of it. In this Situation we found ourſelves obliged, tho' with the greateſt Reluctance, to drop what, we were convinced, was by far the moſt important Part of our Commiſſion, and which could give the moſt effectual Relief; and which we knew the General Aſſembly had had moſt at Heart; and to ſubmit, that our Petition, under the Direction of the Lord Advocate for *Scotland*, ſhould be framed and preſented by him, with the Conſent of the Earl of *Morton*, and of Mr. *Hope*, only with relation to the other Articles contained in the Inſtructions given us by the General Aſſembly. And to this Reſolution of framing and offering our Petition upon theſe Articles only, we were moved by theſe Reaſons: *Primo*, Becauſe we were expreſsly inſtructed by the General Aſſembly to apply to Parliament for Relief in theſe Articles: Two of them particularly had been pointed out and recommended to the Aſſembly One thouſand Seven hundred and Fifty, by the Committee which had been appointed by the preceeding Aſſembly: And tho' we were ſenſible it was the Mind of the Aſſembly One thouſand Seven hundred and Fifty, that we ſhould urge the raiſing of the *Minimum*; yet the Inſtruction relating to it was ſo worded in our Commiſſion, as to give a Handle to the Oppoſition, and to others alſo, to ſay, that we were poſitively appointed to inſiſt upon the other Articles only. *Secundo*, Becauſe we had juſt Reaſon to expect the Concurrence of the Miniſtry, to render our Application for theſe other Articles effectual: And had ſtrong Aſſurances from ſuch who had formerly oppoſed us, that they would uſe their beſt Offices to render our Application ſucceſsful. *Tertio*, Becauſe we judged it better to obtain ſomething, tho' of leſſer Conſequence, than to loſe all; and in this View we were greatly encouraged by ſome of the beſt Friends of the Government, and of our preſent happy Conſtitution, who all along ſhow'd a Diſpoſition to favour us ſo far as Circumſtances would allow.----It had been agreed, for the Sake of Harmony and Peace, that our Petition ſhould lie upon the Table, until an Anſwer ſhould come from the Committee of *Mid-Lothian*, how far they would acquieſce to our obtaining a Bill upon it: A favourable Anſwer was then expected;

pected; but we were diſappointed in the Event. We then urged the moving of our Petition in Parliament: But our Friends, in Hopes of that Committee's coming in to more pacifick Meaſures, ſtill urged a Delay; to which, for the ſake of Peace, we agreed. The mournful Event of the unexpected Death of the Prince of *Wales* for ſome time retarded Buſineſs; but when we were aſſured, at length, that there were no Hopes of accommodating the Matter with the *Mid-Lothian* Committee, but by dropping our Petition entirely, we thought it our Duty ſtill to inſiſt upon it; becauſe when our Petition was laid upon the Table, it was underſtood to be with a View to have it taken up, whatever Anſwer ſhould be ſent from the Committee of *Mid-Lothian*; and becauſe there was not the leaſt Colour or Foundation for any of the publick Reſolutions of the Counties of *Scotland* to oppoſe us in theſe Articles, to which the Aſſembly had agreed without a Vote.

When our Petition was moved in the Houſe of Commons, a Committee was appointed to inquire into the Allegations of it, and to report the ſame to the Houſe: At the ſame Time a Petition from the Members of the Committee of *Mid-Lothian*, in Oppoſition to ours, was offered to the Houſe, and referred to the ſame Committee. We have finiſhed our Evidence in Two Diets of that Committee. The Oppoſition have taken up Two Diets more, in offering Evidence to invalidate the Allegations of our Petition: And the Committe is adjourned to *Tueſday* next, when the Oppoſition are to proceed in laying what further Evidence they have to offer before the Committee: And we can plainly perceive their Deſign is to protract the Time in ſuch a Manner, as that our Affair ſhall not be brought to any Iſſue before this Seſſion of Parliament is ended; where we have good Reaſon to hope our Petition would be granted. And here we muſt beg Leave further to inform you, that not only many Members of Parliament, but all impartial Perſons whatſoever, are not a little ſurpriſed that ſuch a keen Oppoſition ſhould be made to theſe Articles; which cannot in the leaſt hurt the Landed Intereſt, tho' they may be of Benefit to us: And that they cannot aſcribe this to any other Motive or Principle, than to give an abſolute Diſcouragement to any future Application to Parliament, from the Church of *Scotland*, upon any Occaſion; which is to exclude us from the Privilege of *Britiſh* Subjects. We have only to add further, That as ſoon as we were informed of ſome Surmiſes ſpread here, as well as with you, that Occaſion would be taken from our Petition, to make ſome Attempt in Parliament for binding the Law of Patronages more ſtrictly upon the Church of *Scotland*, we applied the greateſt Diligence to ſee what

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Ground there might be for ſuch a Report; and, if there was any ſuch Deſign, to prevent it, even before we had any particular Inſtruction for it, from the late Commiſſion of the General Aſſembly: And as we wrote formerly, we have good Reaſon ſtill to believe that no ſuch Deſign is formed by theſe chiefly concerned in the Adminiſtration: But if, contrary to our Expectation, any ſuch Attempt ſhould be made, we ſhall ſtill continue faithful and diligent to do every thing in our Power to prevent it. And with great Regard, we are, Reverend and Dear Sir, your very affectionate humble Servants (Signed) *Robert Patoun*, *Patrick Cuming*, *William Steel*, *David Dalrymple*. (Dated) *London*, *Panton-Square*, *May* the 4th, One Thouſand Seven hundred and Fifty-one.

The General Aſſembly, after ſome Reaſoning, did agree to appoint a Committee to meet this Afernoon, for conſidering the above Letter from the ſaid Commiſſioners, and report an Opinion thereupon to the Aſſembly, at their Meeting To-morrow Morning, immediately after the Reading of the Minutes of this Diet; when the Aſſembly ſhall either take up the Conſideration of this Affair themſelves, or re-commit it, as they ſee Cauſe: And the following Members are hereby appointed as a Committee for the Purpoſe above-mentioned; *viz.* the Moderator, Principal *Campbel*, Principal *Wiſhart*, Principal *Tulledeph*, Profeſſor *Lumſden*, Maſters *James Ogilvie*, *John Adam*, *George Lindſay*, *James Naſmyth*, *James Rob*, *James Howie*, *John Hunter*, *William Steel*, *John Smith*, *Adam Ferguſon*, *Robert Robertſon*, *David Duncan*, *Robert Wight*, Miniſters; Lord Preſident, Lord Juſtice Clerk, Lord *Drumore*, the Maſter of *Roſs*, Baron *Maul*, Mr. *Gilbert Elliot*, Mr. *Andrew Pringle*, Lord Provoſt of *Edinburgh*, Mr. *Balfour* of *Pilrig*, Mr. *Stewart* of *Allanbank*, Commiſſioner *Campbell*, Ruling Elders. Of the above Committee Seven are declared to be a *Quorum*, whereof Four to be Miniſters, and Three to be Elders: And the Aſſembly appoints them to meet, at Five o'Clock this Evening, in the Laigh Council-houſe.

Extracted upon this, and the Seven preceeding Pages, by

George Wiſhart, Cl. Eccl. Scot.

Reverend and Honourable,

YOUR Letter, of Date the 4th of *May*, directed to the Reverend Profeſſor, Mr. *John Gowdie*, was by him, according to your Deſire, communicated to, and has been conſidered by this Aſſembly:

Aſſembly: And ſince it appears by it, that you were reduced to the Neceſſity to drop that Point relating to enlarging the *Minimum*, mentioned in the Act of Parliament 1633, the Aſſembly does now inſtruct you to carry on the Petition which you have preſented to the Honourable Houſe of Commons, and to bring the ſame to as comfortable an Iſſue as you can: And, at the ſame Time, the Aſſembly does further inſtruct you to uſe your utmoſt Endeavours to prevent the adding any Clauſe to a Bill, which may be brought in upon the ſaid Petition, or to any other Bill which may be detrimental to the Intereſts and Concerns of this Church; and particularly any Clauſe which may extend or further enforce the Law of Patronages, and to employ Counſel to be heard againſt any ſuch Clauſe; and to apply to Parliament for that Effect, as you ſhall be adviſed, or think proper. This, in Name and by Order of the General Aſſembly of the Church of *Scotland*, is ſignified to you by,

Reverend and Honourable,

Your moſt humble Servant,

James Mackie, Moderator.

Edinburgh, 14th *May*, 1751.

Directed

To the Reverend Mr. *Robert Patoun*, Moderator of the late General Aſſembly of the Church of *Scotland*, at his Houſe in *Panton-Square*, *London*.

FINIS.